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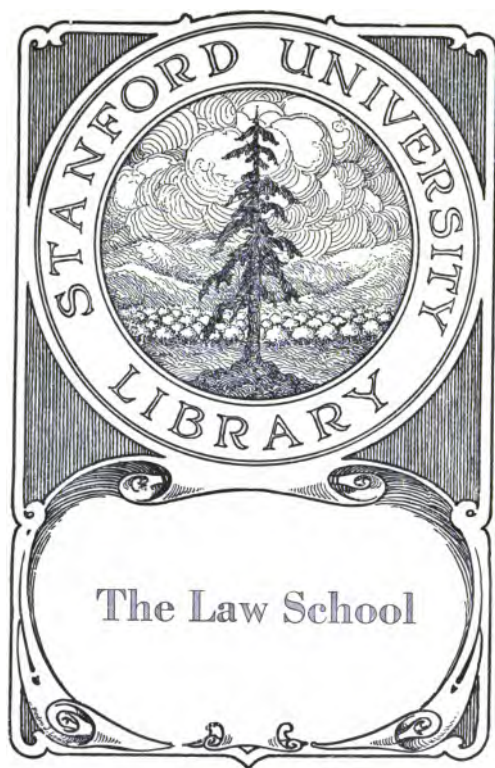
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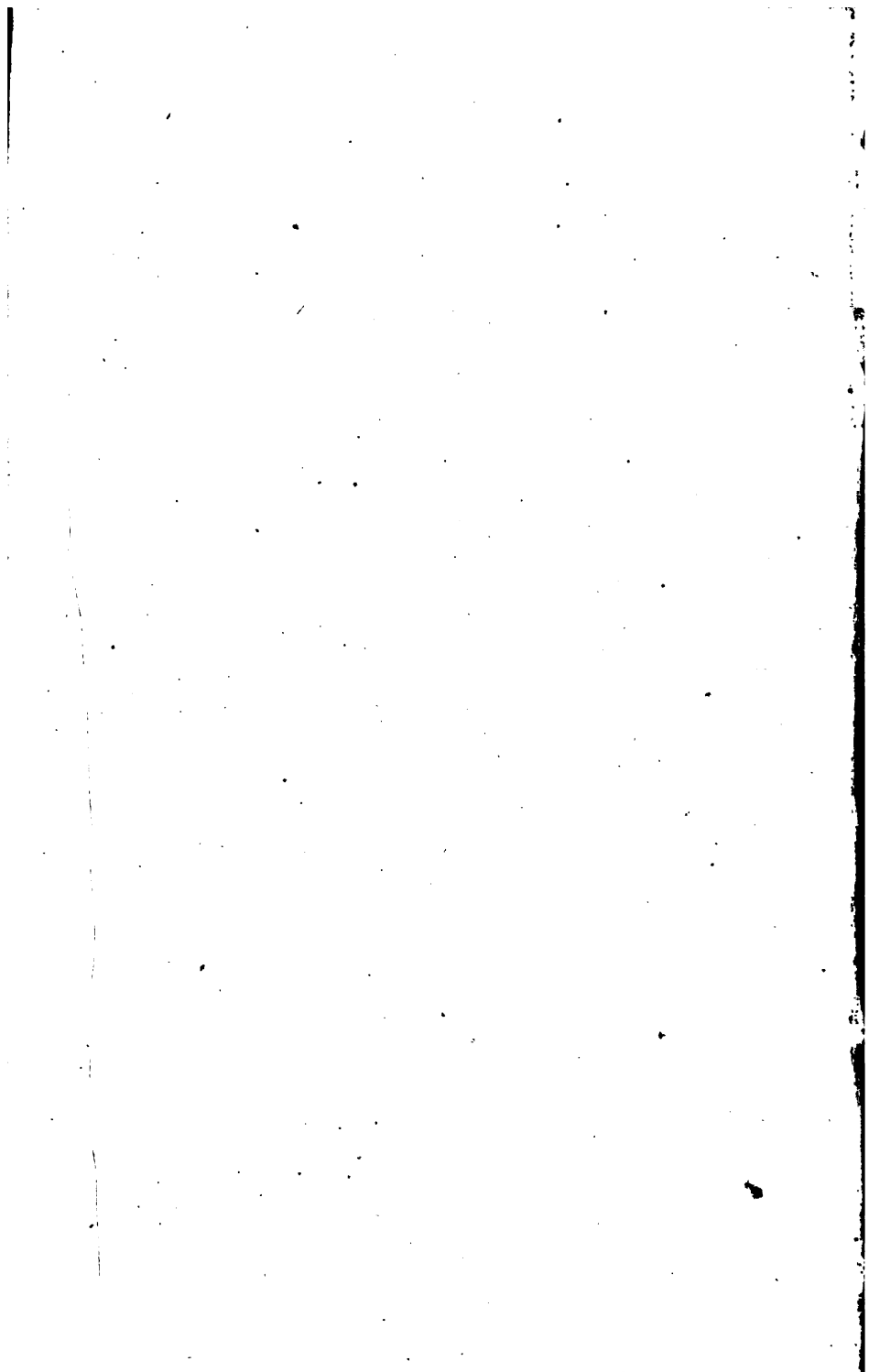
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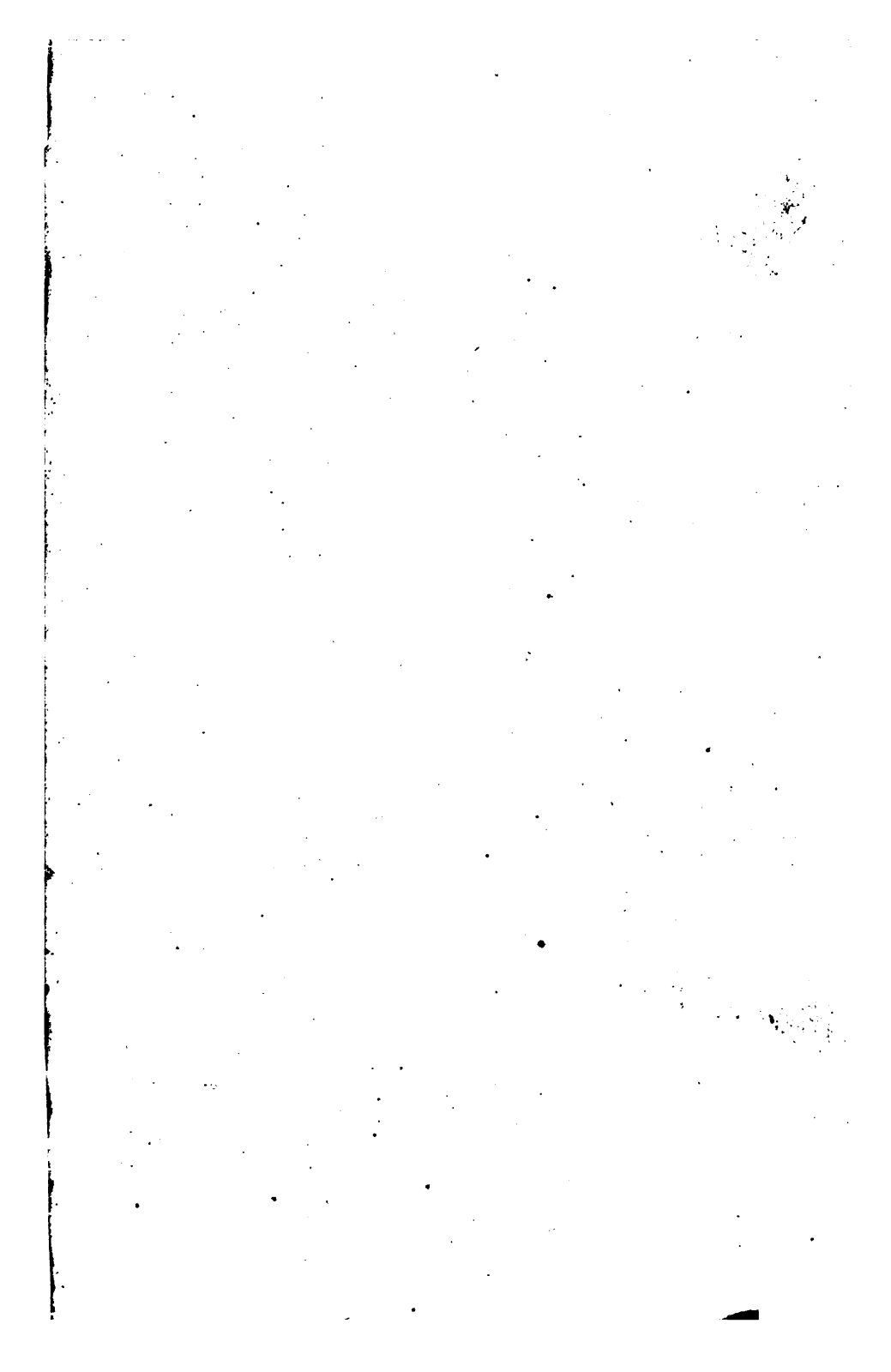
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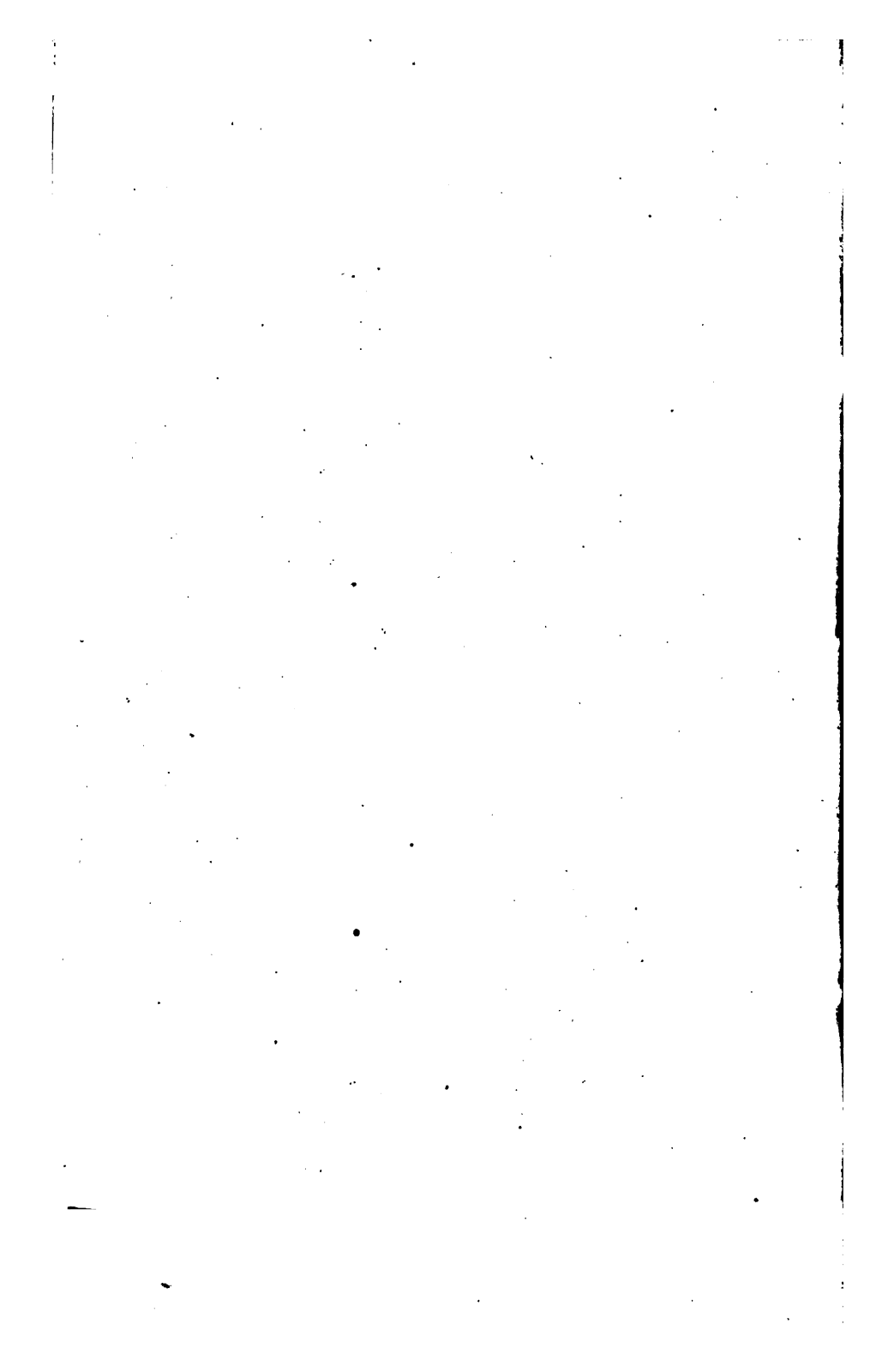
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Kentucky Collection







ACTS

PASSED AT THE FIRST SESSION

OF

THE THIRTY-SIXTH GENERAL ASSEMBLY

FOR THE

COMMONWEALTH OF KENTUCKY,

BEGUN AND HELD IN THE TOWN OF FRANKFORT,

ON MONDAY, THE THIRD DAY OF DECEMBER, IN THE YEAR EIGHTEEN

HUNDRED AND TWENTY SEVEN, AND OF THE COM-

MONWEALTH THE THIRTY SIXTH.

JOSEPH DESHA, GOVERNOR.

PUBLISHED BY AUTHORITY.

FRANKFORT :

JACOB H. HOLEMAN, STATE PRINTER.

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1828.

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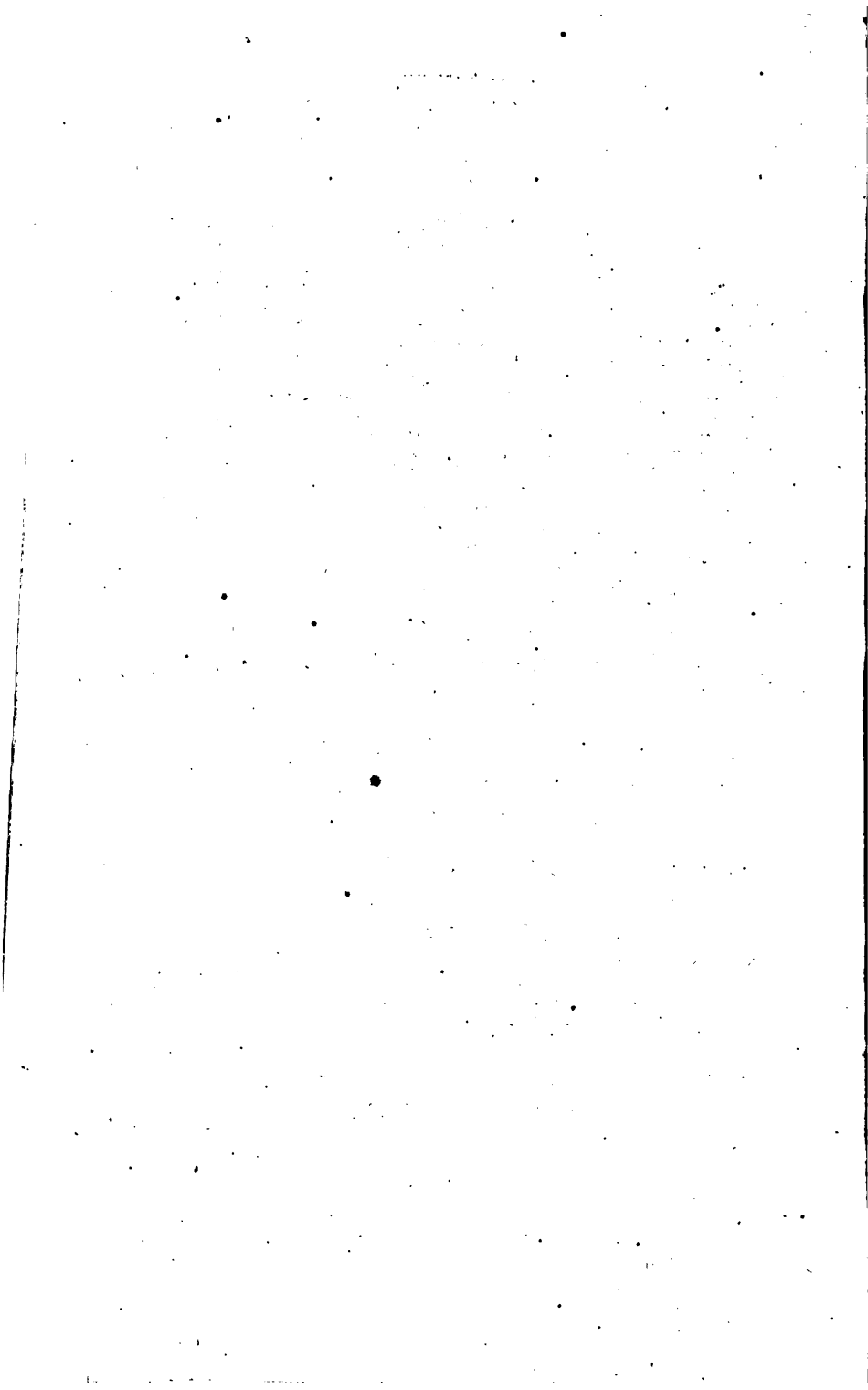
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ACTS
OF
THE GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY.

CHAP. 1.—An act to amend an act entitled an act for the benefit the Headright and Tellico Settlers, and for other purposes, passed December 28th, 1826.

1827.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act entitled an act for the benefit of the Head-right and Tellico Settlers, and for other purposes, passed December the 28th, 1826, shall be and the same is hereby continued in full force for one year longer, to actual settlers.

Approved, December 11, 1827.

CHAP. 2.—An act to authorize the insertion of Advertisements in certain Newspapers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful to publish in either of the following newspapers, to-wit: "The Paris Weekly Advertiser," printed in Paris, "The Western Beacon," printed in Mountsterling, "The People's Press," printed in Richmond, "Bowlinggreen Public Advertiser," printed in Bowlinggreen, and "The Kentucky Advocate," printed in Shelbyville, all advertisements which may be authorized or required by law, except such as are required by law to be published in the newspaper of the Public Printer exclusively; and all advertisements and publications in either of said newspapers shall be as good and effectual as if made in any other authorized newspaper in the State: and it shall be lawful for the editors of said newspapers respectively to charge the

Newspapers in which advertisements may be inserted.

1827.

like fees, and to make such certificates as are authorized to be charged and made by the editors of newspapers heretofore allowed to publish orders, rules of court, &c.

Approved, December 11, 1825.

CHAP. 3.—An act to alter the time of comparing polls in the Eleventh Congressional District.

Recital.

WHEREAS, a writ of election has issued, directing the holding of an election in the Eleventh Congressional District, composed of the counties of Henderson, Muhlenburgh, Butler, Ohio, Daviess, Grayson, Breckinridge, Hart, Hardin, Meade, and part of Edmondson, to elect a member to fill the vacancy occasioned by the resignation of the member elect in said district; and whereas the time for comparing the polls in said district is now fixed by law on the fifteenth day after the commencement of the election, and owing to the late day on which said election is held, it is deemed expedient to fix upon a shorter period for the comparing the polls in said district: Therefore,

Polls of the precincts in the several counties in said district, when to be compared.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the sheriffs or deputy sheriffs who shall attend at the precincts in the said several counties in said district, shall carry the poll of said several precincts to the county town of their respective counties on the Monday succeeding the holding of said election.

Polls of the several counties to be compared at Litchfield, on the fifth day after the election.

SEC. 2. *Be it further enacted*, That the high sheriff or some one of the deputy sheriffs of the several counties of said district shall, on the fifth day after the termination of said election, attend at the court house in Litchfield, in Grayson county, with the polls of said election held and taken at the several county towns, and precincts, in said counties, and then and there, by faithful addition and comparison of said polls, determine who is duly elected, in accordance with the law now in force regulating elections; for which the said sheriffs shall be allowed the same compensation for services as are now allowed by law. *Provided however*, That this act is not to continue in force after the comparing of the polls of the election above referred to; but the law now in force to remain in full force, and govern the sheriffs of said counties in the comparison of the polls of future elections.

Proviso.

SEC. 3. *And be it further enacted,* That it shall be the duty of the several sheriffs who shall meet as by this act directed, in case any one or more of the said sheriffs for said district, shall fail to attend upon the day aforesaid, the sheriffs so assembled shall continue to wait until the absent sheriffs shall attend. *Provided,* said sheriffs shall not be bound to wait longer than six o'clock in the evening of the Saturday following: any sheriff failing to attend agreeably to the provisions of this act, shall be subject to such fine and forfeitures as is provided by the existing laws in relation to elections and returns for members to Congress.

1827.

Duty of the sheriffs of the counties composing the district.

Provido.

Approved, December 11, 1827.

CHAP. 4.—An act authorizing the County Court of Spencer to have an additional term on the third Monday in January, 1828.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the justices of Spencer county, or any three of them, may, and they are hereby directed to hold a court for the county of Spencer on the third Monday in January, one thousand eight hundred and twenty eight.

Approved, December 17, 1827.

CHAP. 5.—An act to alter the time of holding certain courts.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the August term of the Logan Circuit Court, of the Warren County Court, and of the Morgan County Court, shall hereafter commence on the Thursday succeeding the first Monday in August. Time of holding the August terms of certain courts changed.

SEC. 2. *Be it further enacted,* That the Lawrence County Court shall hereafter commence on the second Mondays in each month, and the Floyd County Courts shall hereafter commence on the third Mondays in each month, and the County Court of Pike county shall hereafter commence on the fourth Monday in each month in which they are now respectively entitled to hold their courts. Time of holding the Lawrence, Floyd and Pike county courts changed.

Approved, December 19, 1827.

1827.

CHAP. 6.—An act to amend and explain an act entitled “an act to reduce the price of land between Walker’s line and latitude 36 degrees 30 minutes north, and east of Tennessee river,” approved January 22, 1827.

Preamble.

WHEREAS, doubts have arisen respecting the construction of an act passed at the last session of the Legislature, entitled, “an act to reduce the price of the land between Walker’s line and latitude thirty-six degrees and thirty minutes north, and east of Tennessee river:” Therefore,

Register authorized to receive, register and issue patents on surveys containing not less than 25 acres, made under the recited act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office be and he is hereby authorized and directed to receive all surveys of land made in that section of country, or that may hereafter be made, and register the same, where the quantity is not less than twenty five acres, although the same may not be bounded by other claims, any law to the contrary notwithstanding.

Approved, December 18, 1827.

CHAP. 7.—An act to add a part of Adair to Casey county.

Bounds of the part of Adair added to Casey.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of Adair county which is within the following bounds, to-wit: Beginning on the Green county line, opposite to George Hill’s, who resides on the west of M’Clure’s fork of Casey’s creek; thence with a straight line run so as to exclude from this boundary the following persons, George Hill, Thomas Christison, William Monday and Dudley Noel, to Ezekiel Montgomery’s, leaving said Montgomery in the county of Adair; thence with a straight line to the Casey county line, near the head waters of Woods’ creek run, so as to include Thomas Ward and Nicholas Wheatley; thence with the Casey county line to the Washington county line; and with the same to the Green county line; and with the same to the beginning—shall be and the same is hereby added to the county of Casey; and that the citizens thus added to the county of Casey shall be entitled to enjoy equal privileges, with the citizens of the aforesaid county of Casey, just as though they had been included in said county by the original boundary thereof.

SEC. 2. *Be it further enacted,* That the sheriff and other officers of Adair county shall have power to

finish all collections of a public or private nature which may be placed or already in the hands of said officers, against any individual within the said boundary, and that all suits which may have been commenced against any person or persons within said boundary, shall be prosecuted and closed just in the same manner and by the same authority, as if this act had never been passed.

1827.

Officers of Adair to complete their collections in said boundary

SEC. 3. *Be it further enacted*, That the County Court of Casey shall employ some reputable surveyor to run and mark the division line between Adair and Casey counties, according to the calls named in the first section of this act; and the surveyor thus appointed shall, after first being sworn, proceed to run and cause said line to be plainly marked, and report the same to the County Courts of Adair and Casey: which report shall be entered upon the records of each court, at any time within eight months from and after the passage of this act. And the County Court of Casey shall cause to be levied in their next county levy, a sum adequate to the expense of running, marking and recording said reports, in favor of the persons employed to perform said services.

The County Court to cause the boundary line to be run and marked.

The report to be recorded in ea. county.

The expenses to be paid by Casey C'ty.

SEC. 4. *Be it further enacted*, That the precinct formed in the county of Casey, authorizing elections to be held at Thomas Douthet's, on the south fork of Greep river, be and the same is hereby dissolved, any law to the contrary notwithstanding.

A precinct in Casey County abolished.

Approved, December 19, 1827.

CHAP. 8.—An act to provide for the safe keeping of Jesse Hide and Ottaway Hide.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that Jesse Hide and Ottaway Hide are confined in the jail of Muhlenburg county, for felony, and that the jail is insufficient for their safe keeping, without a guard, which expense must be a county charge, and will be extremely oppressive to the people of this county: For remedy whereof,

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That immediately after the passage of this act, the sheriff of Muhlenburg county shall convey the said Jesse Hide and Ottaway

Prisoners directed to be removed from Muhlenburg to Ohio C'ty jail for safe keeping.

1827.

Hide to the jail of Ohio county, and there deliver them to the jailor of said county, together with a copy of the indictment wherewith they stand charged; whose duty it shall be to keep securely said prisoners, until they shall be again demanded by the sheriff of Muhlenburg county.

And to be removed to Muhlenburg for trial.

SEC. 2. *Be it further enacted*, That the sheriff of Muhlenburg county shall, within six days preceding the next term of the Muhlenburg Circuit Court, convey the said Jesse Hide and Ottaway Hide, from the jail of Ohio county to the county of Muhlenburg, and deliver them to the jailor of said county, to be by him safely kept, as if this act had never been passed.

Expenses of removal and keeping to be paid by the county of Muhlenburg.

SEC. 3. *Be it further enacted*, That the expense of conveying the said Jesse Hide and Ottaway Hide, to and from the Ohio jail, shall be paid by Muhlenburg county: and the County Court are hereby authorized and required to levy the same: and the jailor of Ohio county shall be paid his fees for keeping said prisoners, in the same manner as provided for by law in other cases.

Approved, December 21, 1827.

CHAP. 9.—An act to authorize a special term to be held by the judge of the 12th judicial district, in the county of Garrard, for the purpose of trying a certain negro slave named Isaac, who stands charged with murder.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the judge of the twelfth judicial district to hold a special term of the Garrard Circuit Court, to commence on the third Monday of January, 1828, and continue as long as may be necessary, for the trial of a certain negro slave named Isaac, charged with felony, agreeably to the laws now in force. And should the said judge be prevented from attending on said day, the said court shall stand adjourned for his coming, from day to day for four days. And it shall also be the duty of the attorney for the district, to attend said court, and prosecute said slave for and in behalf of the Commonwealth.

Approved, December 27, 1827.

CHAP. 10.—An act to change the place of voting in the Sharpsburg precinct, in Bath county, and for other purposes.

1827.

WHEREAS, it has been represented to the present General Assembly of the Commonwealth of Kentucky, that the house of Walter Caldwell, which was designated by law for the taking of the votes in the Sharpsburg precinct in Bath county, has been consumed by fire: Therefore,

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the qualified voters in the Sharpsburg precinct, in Bath county, shall hereafter meet at the house of Josiah Reed, in the town of Sharpsburg, to vote at all legal elections.

Elections to be held at the house of Josiah Reed.

SEC. 2. *Be it further enacted*, That in future the elections shall be held at the house of Joseph Davis, on Cox's creek, at the place commonly called and known by the name of Curts' mill, in Livers' precinct, in Nelson county, and not at the house of Robert Livers as heretofore.

Place of voting changed to the house of Jos. Davis.

Approved, December 27, 1827.

CHAP. 11.—An act for the benefit of the administrators and heirs of Richard C. Anderson, deceased.

WHEREAS, it is represented that Richard C. Anderson, of Jefferson county, departed this life seized of considerable real estate lying in this Commonwealth, and that his personal estate is not adequate to discharge his debts, and that several of his heirs are infants, in consequence of which circumstances, great loss and sacrifice of the estate is likely to ensue, unless provision be made for its sale and application to the discharge of the debts, without coercive sale by execution: Wherefore,

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the Jefferson Circuit Court, upon bill filed on the equity side thereof, by the administrator and adult heirs of the late Richard C. Anderson, deceased, against the said infant heirs, alledging the amount of debts and the deficiency of personal estate, and designating the real estate desired to be sold, to appoint a guardian ad litem for the said infant heirs, and cause him to answer said bill; and if, upon final hearing, it shall appear that the personal estate is insufficient to discharge the debts, then to decree a sale of

Circuit Court of Jefferson authorized to decree a sale and conveyance of the real estate of the deceased, for the payment of debts.

1827.



the real estate designated, or so much thereof as shall be necessary to discharge the debts, and to authorize the said administrator to make sale of such estate, and report the same to said court. If the court approve the sale, it shall be confirmed, and a conveyance made by the administrator aforesaid to the purchaser or purchasers accordingly; which conveyance shall vest the legal and equitable title of said infants to the property conveyed, absolutely in the purchaser or purchasers: the said administrator, previously executing, in said court, bond with security, in an adequate penalty, conditioned to pay the proceeds to the creditors. And the said court shall direct said real estate to be sold either at public or private sale, at such credit as it may think proper, and shall cause the same to be valued by two commissioners, and shall direct at what proportion of the valuation the same may be sold, according to the necessity and urgency of the case. *Provided however*, That the said court may reserve the slaves descended to said heirs from sale and decree the sale of land instead thereof, if from the allegations of said bill, and the proofs in the cause, it shall appear to the court advantageous to said heirs.

Proviso.

AND WHEREAS the said decedent, Richard C. Anderson, was indebted to the Bank of the United States at Louisville, in a considerable sum, which was secured by mortgage on a portion of his real estate and slaves, and it is thought that a renewal of his note in said bank, from time to time, may be more advantageous than a foreclosure of the mortgage:

SEC. 2. *Be it therefore further enacted*, That Larz Anderson, the administrator upon the estate of said Richard C. Anderson, shall have power and authority to renew said note in said bank, for and in behalf of the infant heirs, and that the mortgage shall stand as a security for said note so renewed, and shall have the same effect in favor of said bank, as though the said infants were adults.

Adm'r authorized to renew a note to the U. S. Bank from time to time, &c.

Approved, December 27, 1827.

CHAP. 12.—An act for the benefit of the sheriffs of Hopkins and Wayne counties.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that Thomas

G. Davis, sheriff of Hopkins county, did, in the month of June last, resign his office as sheriff of said county of Hopkins, and immediately the Governor commissioned Charles Bradley, the senior magistrate, as sheriff of said county, and at the July County Court was sworn in accordingly, and owing to the shortness of the time, has been unable to collect all the revenue due from said county, and what he has collected has been paid to the Auditor: And for remedy whereof,

1827.

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the further time of three months be allowed from and after the passage of this act, unto the said Charles Bradley to complete said collection, and pay the balance due into the treasury, and that he be allowed the further time of three months from the passage of this act, to prove and return his delinquent list to the Auditor of public accounts, any law to the contrary notwithstanding.

Further time allowed the Sheriff of Hopkins to make his collection of revenue and return his delinquent lists.

SEC. 2. *Be it further enacted,* That in order to avail himself of the benefits of this act, it shall be the duty of the said Charles Bradley to give bond with approved security in the Hopkins County Court at their next January term, for the balance of the revenue which may appear to remain due and unpaid by the said Charles Bradley, sheriff of Hopkins county.

Conditions to be complied with before he is entitled to the benefit of this act.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that the sheriff of Wayne county forwarded by the representation from said county, money and claims on the treasury to the amount of the revenue due from said county of Wayne, but on settlement with the Auditor, part of the claims, to the amount of about eighty dollars, were rejected, owing to the Clerk's failing to certify them according to law: Therefore,

Sheriff of Wayne.

SEC. 3. *Be it enacted,* That the further time of thirty days be and the same is hereby given, from the passage of this act, to the sheriff of Wayne county, to pay the balance of the revenue into the treasury from said county of Wayne, for the year 1826.

30 days allowed him to pay up the balance of the revenue for 1826.

Approved, December 27, 1827.

1827.

CHAP. 13.—An act to amend the several laws establishing the town of Covington.

Recital.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that the front street, in the town of Covington, below Scott street, runs into the Ohio river, preventing thereby any communication down the bank of said river: and whereas, it is believed that an alteration in that part of said town below Scott street, and the alley running west between Third and Second streets, to the lower line of said town, thence with said line to the Ohio river, thence up the Ohio river to Scott street, would be to the interest of the citizens of said town: Therefore,

Trustees of the town with the consent of the owners, authorized to make certain alterations in streets & lots.

Report to be recorded in the books of the trustees, and in the County Court office of Campbell.

Trustees authorized to close certain alleys upon like terms & conditions.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a majority of the trustees of said town, with consent of the owners of the lots in that part of said town, may make any alteration in the street or streets, alleys or lots of said town, as may be agreed upon by and between said trustees and the owner or owners of said lots; which alteration shall be signed by a majority of the trustees of said town, and the owner or owners of said lots, and certified by the Clerk of the board of trustees of said town to the Clerk of the County Court of Campbell county, who shall record the same. And it shall be the duty also of the Clerk of the board of trustees of said town, to record any such alteration in the record book of the trustees thereof; which alteration, if made, shall have the same force and effect as though it formed a part of the original plan of said town.

SEC. 2. *Be it further enacted*, That it shall and may be lawful for the trustees of said town, with the consent of the owner or owners of any entire block or half block of lots below Scott street, to close up any alley or alleys running through the same; *provided*, that the same shall be carried to the record in the same manner as is provided for in the preceding section.

Approved, December 31, 1827.

CHAP. 14.—An act for the benefit of the Southern College and Lancaster Seminary.

WHEREAS, the General Assembly of this Commonwealth has created a College at Bowlinggreen, Ken-

tucky, and endowed it with certain appropriations, for special purposes: and whereas a suitable building had been erected, which by casualty or otherwise, has been unfortunately consumed by fire: and where. as about six hundred dollars of said fund has not been disbursed or used, but is yet in the hands of the trustees of said Southern College: and whereas the said trustees have title to some land, which, under this Commonwealth has been carried into grant for the benefit of said College, together with a library and some apparatus: Therefore,

1827.

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the said trustees are hereby empowered and authorized to use any money or property in their possession as trustees, for the special purpose of erecting a portion of a building for said College, such as will hereafter be a suitable ell or wing to said College or building, when, in better times, said building may be completed or extended.

Trustees of the Southern College authorized to use their funds in erecting buildings.

SEC. 2. *Be it further enacted,* That if said trustees think it advisable, they may, in consideration of sufficient contributions that may be offered and made by the Masonic lodge or its members, at Bowlinggreen, grant certain privileges, rights and title to said lodge, in and pertaining to and to be confined exclusively to the upper room or rooms in said ell or wing, and make said lodge such title thereto as may secure them remuneration for their contributions.

May grant the privilege of using the same to the Masonic lodge upon certain conditions.

SEC. 3. *Be it further enacted,* That the scite or location for said College shall not be changed from where the building for said College originally stood, unless in the opinion of a majority of said trustees, a better situation can be procured, and without the expenditure of the aforesaid means, or any part thereof.

Scite of the College building not to be changed.

SEC. 4. *Be it further enacted,* That said trustees shall, if possible, accomplish the object aforesaid, to-wit, the erection of said ell or wing, without the disposition of their books or apparatus, first using every other resource, and trying, in addition thereto, to procure private donations.

Books, &c. of the College not to be sold, unless absolutely necessary.

SEC. 5. *Be it further enacted,* That it shall be the duty of said trustees, in relation to the above money and property, to be thus appropriated, once in each year, by their Clerk, or some one appointed out of their board for the purpose, to give a full account of the disposition of said money or property, by written

Trustees to return an acc't. annually of the monies expended by them, and to settle with the Warren C'ty Court annually.

1827.

affidavit, before the County Court of Warren, to be filed and recorded in said court: and said trustees shall from time to time, settle with said court, shewing their receipts and expenditures: and said court is hereby authorized to enforce said settlement as by law they may enforce settlements with guardians, &c.

Lancaster
Academy.

AND WHEREAS great inconvenience is experienced from the great number of trustees to the Lancaster Academy, and from the inattention and locality of said trustees to said institution: For remedy whereof,

Present trustees
declared
out of office in
June next.

SEC. 6. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That said trustees, and each of them, shall be and are hereby declared out of office, on the 1st day of June, 1828.

Garrard C'ty
Court author-
ized to ap-
point trustees

SEC. 7. *Be it further enacted*, That the County Court of Garrard county, at their May term, 1828, shall and are hereby authorized to appoint five fit and suitable persons for trustees to said institution, who shall be forthwith notified of said appointment, and who shall be in office so soon as the present trustees are out of office by this act: and said trustees so appointed by said court, shall have power to fill all vacancies and appoint their successors, when any vacancy shall occur by death or otherwise.

Vacancies to
be filled by the
trustees.

Approved, December 31, 1827.

CHAP. 15.—An act to divorce Sally Cole from her husband James Cole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Sally Cole and James Cole, her husband, as to the said Sally, be, and the same is hereby annulled and set aside, and the said Sally Cole be and she is hereby restored to all the privileges and immunities of a feme sole.

Approved, December 31, 1827.

CHAP. 16.—An act further to regulate the powers of the trustees of the town of Mount Vernon, in Bullitt county, and for other purposes.

Trustees of
the town to
be elected an-
nually.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the elections for the trustees of the town of Mount Vernon, in Bullitt

county, shall hereafter be holden on the second Monday in August, in each year, at the house of Abraham Job, in said town, instead of the time heretofore prescribed by law; and that in case of vacancies by death, resignation or otherwise, that the board of trustees so elected, shall have power to elect, and are hereby directed forthwith to elect and fill said vacancies.

1827.

And to fill vacancies in the board.

SEC. 2. *Be it further enacted*, That said trustees shall have power to levy upon the holders of property in said town, an ad valorem taxation, not exceeding thirty-seven and a half cents upon each hundred dollars worth of property, to be appropriated as said trustees may deem necessary, for the good and interest of said town.

May levy and collect taxes.

Approved, December 31, 1827.

CHAP. 17.—An act for the benefit of Thomas Smith and others.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Register of the land office be, and he is hereby directed to issue a patent to Thomas Smith, of Barren county, for twenty-five acres of land, according to the lines and corners of the survey whereon the said Smith now resides, without fee.

Provision for Thos. Smith.

SEC. 2. *Be it further enacted*, That the Register be, and he is hereby directed to issue a patent to Jane Shipley, for fifty-four acres of land, whereon she now resides, in Allen county, upon the production of a plat signed by Hugh Brown, without fee.

Jane Shipley.

SEC. 3. *Be it further enacted*, That the Register of the land office be, and he is hereby directed to receive a plat and certificate of survey made in the name of James Manes, assignee, for two hundred acres of land, upon a certificate No. 980, granted by the Pulaski County Court, to Samuel Hand, and to issue a patent therefor in the name of Margaret Manes, the widow, and her children, the heirs of James Manes, deceased, without the payment of the State price, and without fee, on the survey made by James Hardgrove, surveyor of Pulaski county, in the name of the said James Manes, assignee as aforesaid. *Provided*, that said patents shall not interfere with older or better claims to said tracts of land, and the patents shall contain this proviso.

For the widow & heirs of Jas. Manes, deceased.

Approved, December 31, 1827.

1828.

CHAP. 18.—An act making a Chancery term to the Montgomery Circuit Court.

A chancery term to be held annually in Montgomery, in February.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Judge of the Montgomery Circuit Court, to hold annually, a term for the trial of Chancery causes, commencing on the third Monday in February, and to continue twelve juridical days, if the business shall require it; and the Judge presiding, shall have the same powers over all chancery proceedings which he may or can have at the regular terms of said Circuit Court.

Approved, December 31, 1827.

CHAP. 19.—An act to authorize the trustees of the Hart county Seminary to sell their donation lands.

WHEREAS, it is represented to the present General Assembly, that the trustees of the Hart county Seminary, have been heretofore authorized by law to sell two thirds of the land located for that Seminary, and that it would greatly promote the interest and prosperity of said institution to allow the said trustees to sell and convey the remaining third of said land for the benefit of the Seminary as aforesaid:

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the trustees of the Hart county Seminary, to sell and convey the whole or any part of the land located for said Seminary, and apply the proceeds thereof in the erection of a building for the accommodation of said institution.

Approved, January 2, 1828.

CHAP. 20.—An act for the benefit of David Morgan.

County Court of Floyd authorized to make certain changes in the State road.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the County Court of Floyd county, shall have full power to appoint four disinterested Commissioners, any three of whom may act, after being first duly sworn, impartially to review that part of the road leading from Mount Sterling to the Virginia line, by way of Prestonsburg, which passes through the land of David Morgan, beginning at the first crossing of the branch above

his house; and to intersect the State road at the ford of Sandy river, known by the name of Haws's ford; and the said Commissioners shall report to the said Court, the convenience and inconvenience the public as well as the individual may sustain by the change which is contemplated, and on the return of said report, the said County Court shall have power (if they deem it expedient,) to make any order to change said road, at the expense of said Morgan. The road shall be opened and completed in every respect, agreeably to the act of Assembly for opening the road from Mounsterling to the Virginia line, which road, when so changed, shall be governed in all respects by the laws now in force.

1828.

Approved, January 2, 1828.

CHAP. 21.—An act for the benefit of Jesse Bailey, Ephraim Blackford and others.

WHEREAS, a survey has been made and executed on the 2d day of June, 1800, in Warren county, Kentucky, for William Powell, assignee of John M'Niel, who was assignee of Wyatt Anderson, of two hundred acres of second rate land, by virtue of the Commissioners certificate granted to Wyatt Anderson, No. 2092: And whereas, said two hundred acres of land was sold by the Register of the land office on the 19th day of December, 1807, to Jesse Bailey for the first instalment, amounting to \$9 07, which land has never been redeemed, as appears by the Register's return in the Auditor's office: And whereas, Ephraim Blackford, a remote assignee of said Bailey, has paid \$63 08, the State price in full, as also appears from the Auditor's receipt, and the title to said land should therefore pass to said Bailey, from all that appears in the land office of this Commonwealth: And whereas, the said certificate of sale by the Register to said Bailey is lost, and the said Bailey's necessary affidavit cannot be procured as to the loss of said certificate of sale to said Bailey: For remedy whereof,

Recital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office of this Commonwealth, be authorized, and he is hereby directed, upon the duplicate of the certificate of sale by the Auditor, and a certified copy of the original survey being filed from the Sur-

Register authorized to issue to Bailey a patent for 200 acres of land, upon certain conditions.

1828.

Proviso.

veyor's office of Warren county, in the Register's office, forthwith to issue a patent for said two hundred acres of land to said Jesse Bailey, dispensing with the affidavits now required by law: *Provided*, that nothing herein shall be construed to affect the equitable interest of those claiming under the said Bailey.

Approved, January 7, 1828.

CHAP. 22.—An act to authorize the trustees of the Trigg county Seminary to sell and convey her donation lands.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the trustees of the Trigg Seminary, are hereby authorized to sell and convey all or any part of her donation lands, any law to the contrary notwithstanding.

Approved, January 9, 1828.

CHAP. 23.—An act to regulate the sale of the land west of the Tennessee river.

Preamble.

WHEREAS, it is represented to this General Assembly, that there are many meritorious citizens, who from the scarcity of a circulating medium, have not been able to avail themselves of the indulgence granted them by the second section of an act approved January the 16th, 1827, further to regulate the sale of land west of the Tennessee river: Therefore,

A pre-emptive right to enter lands west of the Tennessee river, given to actual settlers thereon for 12 months.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall not be lawful for any person or persons, within twelve months after the passage of this act, to enter any quarter or fractional quarter section of land within the district west of the Tennessee river, which has been improved by any actual settler at least twelve months before the passage of this act, and who still resides thereon, but said settler shall have the exclusive right to enter said land for the above period of time and no longer.

Approved, January 9, 1828.

CHAP. 24.—An act to alter the time of holding the Anderson County Courts, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Anderson Coun-

ty Court shall hereafter be held on the second Monday in each month.

1828.

SEC. 2. *Be it further enacted*, That the said County Court, a majority of all the justices thereof being present, may at their January, February or March terms, appoint a commissioner or commissioners of the revenue.

And may appoint commissioners at their Jan'y, Feb'y, or March terms.

Approved, January 12, 1828.

CHAP. 25.—An act for the benefit of John C. Rogers, Sheriff of Ohio County.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that John C. Rogers, sheriff of the county of Ohio, has paid into the treasury of this State, the sum of two hundred and twenty-seven dollars, in part of the revenue of said county for the year one thousand eight hundred and twenty-six, collectable in the year one thousand eight hundred and twenty-seven, and owing to the extent of territory in said county, and the ill health of said Rogers, he having been confined to his room for some considerable time during the collecting season, said Rogers has been unable to effect a collection of the balance of the revenue of said county, being the sum of one hundred and ten dollars, to pay which the said Rogers asks the further indulgence of five months: Therefore,

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the further time of five months, from and after the passage of this act, be allowed the said Rogers to collect and pay into the treasury the balance of the revenue of said county.

Further time of five months all'd to collect and pay into the treasury the balance of revenue for 1827.

SEC. 2. *Be it further enacted*, That until the expiration of said time, the Auditor of public accounts shall not commence or prosecute any suit or motion against said sheriff for the failure aforesaid.

Auditor not to proceed against him during that time.

SEC. 3. *Be it further enacted*, That this act shall not take effect unless the said sheriff shall procure from under the hands and seals of his securities in the bond executed by him, for the collection of the revenue of said county, a writing to the following effect: "Whereas an act passed the General Assembly of the Commonwealth of Kentucky, giving to John C. Rogers the further time of five months to collect and pay in the revenue of the county of Ohio for the

Conditions on which the provisions of this act is to be effectual.

1828.

year 1826, collectable in 1827, approved January, 1828: Now be it known, that we, the undersigned, securities of the said Rogers, for the collection of the said revenue, hereby bind ourselves and our heirs, that we will not take advantage of the passage of said act, and will not file any plea or take any other advantage of said act, so far as the same may be understood to release us from the liability we are now under. Given under our hands, &c." Which said writing shall preclude the said securities from filing any plea in any suit or motion which may be brought and prosecuted against said Rogers for failing to pay over the said revenue after the lapse of the time for which indulgence is herein granted.

SEC. 4. *Be it further enacted*, That the said writing shall be attested by the Clerk of the County Court of said county, and forwarded to the Auditor of public accounts, on or before the tenth day of February next; and upon the failure of the said Rogers to comply with the two last sections of this act, the same shall be of no effect, and regarded as a nullity.

Approved, January 14, 1828.

CHAP. 26.—An act to legalize the proceedings of the Grant County Court at an extra term of said Court.

Recital.

WHEREAS, it is represented to the present General Assembly, that in the year 1826 an extra term of the Grant County Court was held by the justices thereof, and at said term letters of administration were granted to William Arnold and Sarah Wilson, of the estate of Thomas Wilson, deceased, who executed bond as in other cases: and also another extra term of said court was held in the year 1827, at which letters of administration of the estate of Wesley Nations, deceased, was granted to Jemima Nations, and that said court was induced to hold the said several extra terms; and grant the letters of administration as aforesaid, by the urgent necessity that existed for the proceedings, owing to the peculiar situation of the respective estates: And whereas doubts are entertained as to the legality of said proceedings: Therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the County Court of Grant shall, at some regular terms of their court

cause summonses to issue against the principals and securities in the respective administration bonds aforesaid, requiring them to come forward at some subsequent term of such court, to be named in the summons, severally to re-acknowledge their respective bonds, and if they shall so come forward and make such re-acknowledgements, the court shall cause the same to be noted on their minutes, and if they or any of them shall fail, the court shall require the respective administrators aforesaid forthwith to give new bonds and security for the estates, as though such administration had never been granted, and shall require such securities to be bound as well for the past as the future acts of such administrators for whom they are securities: and in case of the failure of such administrators in each or either of the cases to give such security, said court shall grant administration to any other person as though no administration had ever before been granted, and shall make such orders for the delivery over of the estate, in either of the cases, by the administrator appointed at such call term, and for settlements with them as to what has been administered, as shall be best calculated to protect creditors and all others having an interest in such estate.

1828.

Administrators of certain intestates, appointed by the Grant County Court at extra terms, required to re-acknowledge or give new bonds.

Duty of the court upon their failure to do so, &c.

SEC. 2. *Be it further enacted*, That upon the re-acknowledgement by the administrators on either of the estates, and her or their securities, as herein provided for, then the acts of said County Courts, at such extra term, at which administration in that case in which the re-acknowledgment is made was granted, shall be legalized and held as good and valid as if such administration had been granted, and the other acts in relation thereto done at a regular term of such court.

Proceedings of said County Court legalized upon the foregoing conditions being complied with

AND WHEREAS, it is believed that great mischiefs may be done by the County Courts of this Commonwealth holding extra terms at times not authorized by law: Therefore,

SEC. 3. *Be it further enacted*, That such terms of the courts shall not hereafter be held, nor any business of the court transacted, and all justices of the peace offending herein, shall be liable to presentment or indictment by a grand jury, and to be fined or imprisoned, or both, at the discretion of a jury.

County courts prohibited in future from holding extra terms.

Penalty, &c.

1828.

CHAP. 27.—An act changing the time of holding the Anderson and Laurel Circuit Courts, and for other purposes.

Time of holding the Anderson Circuit changed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Circuit Court for the county of Anderson, shall hereafter be held on the third Mondays of May, August and November in every year, instead of the times directed by law; and all process or recognizances taken or made returnable to the next term of said court, shall be returnable to the May term, as directed by this act, and shall be as valid as though this act had not passed.

Time of holding Laurel Circuit Court changed.

SEC. 2. *Be it further enacted*, That the Circuit Court of Laurel County, shall hereafter be held on the Thursdays succeeding the third Mondays in April, July and October, instead of the times now directed by law.

Proceedings of the Laurel County Court legalized.

SEC. 3. *Be it further enacted*, That the proceedings of the County Court of Laurel county, held in the months of January, February, April and May, 1827, and the Circuit Court for said county held in March, 1827, shall be and the same are hereby legalized, and declared to be as valid as if the said courts had been held on the days directed by law.

Approved, January 14, 1828.

CHAP. 28.—An act for the benefit of Frances Vanscoik.

WHEREAS, it is represented that the husband of Frances Vanscoik, of the county of Mason, has abandoned her for the space of twelve years or thereabouts, and has entirely estranged himself from her and her children, one of whom is a deplorable idiot, and all of whom have been dependent upon the personal exertions of the said Frances for a support: and whereas it is further represented that the father of the said Frances has lately departed this life, by whose death one tenth part of one hundred and six acres of land, and a like proportion of seven slaves, and a small personal estate, has descended or will fall to her share, subject however to the dower of the widow of the deceased; and that a suit in chancery is now depending in the Mason Circuit Court in the name of one of the heirs, for a division of said estate: and it is suggested that, in consequence of the smallness of the estate and the number of heirs, the said

estate is incapable of being divided, by means whereof it will have to be converted into money, and will fall within the control of the husband of the said Frances, by reason whereof she will be left entirely without the means of supporting herself and children, her husband having evinced, by his conduct for twelve years past, that he will in no wise contribute thereto:

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Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky; That the Mason Circuit Court shall be and is hereby authorized to enquire into the truth of the facts set forth in the preamble, and if said court shall be satisfied of the truth thereof, it shall be lawful for the said court to appoint a trustee for said Frances, and the property which descended to her, or to which she will be entitled as one of the heirs of her deceased father, shall to all intents and purposes, be vested in said trustee, in as full and ample a manner as if the same had been devised to said trustee for her benefit. The said trustee shall be made a defendant to the suit now depending for said property, and shall be accountable for the trust reposed in him, to all intents and purposes, and in the same manner as if he had been created a trustee by the last will and testament of the father of the said Frances Vanscoik.

Approved, January 19, 1828.

CHAP. 29.—An act for the benefit of David and Elizabeth E. Jones.

WHEREAS, David Jones, of Mercer county, hath represented to the present General Assembly, that he is the father of an only child, a natural born daughter, called and known by the name of Elizabeth E. Jones, now residing with him, and partly raised by him, which child he is desirous to legitimate, as far as practicable, by giving to the said Elizabeth all the rights and privileges of inheritance in and to his estate, in the same manner and as to the same extent, as if she were his lawful issue and heir at law: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Elizabeth E. Jones and her lawful issue, shall have, possess and enjoy all the rights of inheritance in and to the estate of the

1828.

said David Jones, (as well real as personal,) which she might or could derive or enjoy from him were she his lawful issue born in lawful wedlock;

Approved, January 19, 1828.

CHAP. 30.—An act for the benefit of the Sheriff of Scott county.

Further time
allowed him
to return his
delinquent
lists to the
Auditor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That sixty days from and after the passage of this act, be, and the same is hereby allowed to David Flournoy, sheriff of Scott county, to have his delinquent list for the tax due for the year one thousand eight hundred and twenty-six collectable in the year one thousand eight hundred and twenty-seven, as well as the delinquents on the list sent out by the Auditor of public accounts, allowed and certified by the County Court of Scott, who are hereby authorized at their January or February term, one thousand eight hundred and twenty eight, to examine, allow and certify the same, and upon his having the same allowed and certified by said court, according to the several acts now in force upon that subject, and returning the same to the Auditor, within the time prescribed by this act, the Auditor is hereby required to receive and audit the same, and give him a credit for the amount thereof.

Approved, January 19, 1828.

CHAP. 31.—An act for the benefit of Polly Burnet and children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office be and he is hereby authorized and required to issue a patent to Polly Burnet and her children, for our hundred acres of land lying in Whitley county, beginning on the north side of Cumberland river, thence running down the river to the mouth of a big branch, thence up the branch with its meanders, so far that a line to the beginning will include one hundred acres, without the State price being paid thereon.

Approved, January 26, 1828.

CHAP. 32.—An act to authorize Clerks of Courts to take recognizances in certain cases.

1823.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That where any person has heretofore or shall hereafter be committed to jail for failing to enter into a recognizance to keep the peace or be of good behavior, in pursuance of an order of any of the courts of record of this Commonwealth, and the said courts shall have entered of record in what sum the party thus committed is required to give security, it shall be lawful for the Clerk of the respective courts in which such order shall have been made, to take the recognizance in his office during vacation, and the jailor is hereby authorized to take any such person committed to his custody before the Clerk, for that purpose.

Clerks of Courts authorized to take recognizances of persons committed to jail for failing to give security to keep the peace.

Approved, January 28, 1828.

CHAP. 33.—An act to extend the town of Joesville, at the mouth of Clover creek, in Breckenridge county, and for other purposes.

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That a town heretofore laid off and established by order of the Breckenridge County Court, in the county of Breckenridge, at the mouth of Clover creek, called and known by the name of Joesville, shall hereafter be called and known by the name of Cloverport.

Town of Cloverport established.

SEC. 2. Be it further enacted, That the title to fifty acres of land belonging to Felix Huston, on the lower side of Clover creek, adjoining the said town, be vested in the trustees thereof, to be by them laid off as part of said town, under the rules and regulations of an act regulating the establishment of towns, passed December nineteenth, one thousand seven hundred and ninety-six.

Title to fifty acres of land adjoining thereto vested in the trustees to be by them laid off into lots, streets, &c.

Approved, January 28, 1828.

CHAP. 34.—An act to change the boundary line of the town of Henderson.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that Thomas H. Herndon, of the town of Henderson, in Henderson county, owns several lots of land in the upper end of said town, which all lie together, and prays

Recital.

1828.

Boundary
line.

that a law may pass changing the boundary line of said town, so as to strike his lots out of the bounds of said town: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the boundary line be as follows, to-wit: At the point on the south side of the upper cross street, where the third range street intersects the same, the line shall turn at right angles and run down the third range street, crossing the second cross street till it strikes the third cross street, then at right angles with said cross street till it strikes the fourth range or back street, reserving to the trustees of said town the right of keeping open the back street and upper cross street, the same as if this law had not passed.

Approved, January 23, 1828.

CHAP. 35.—An act for the benefit of the heirs of Tobias Moredock.

WHEREAS, it is represented to this General Assembly that Tobias Moredock obtained from the commissioners a certificate for two hundred acres of land, number one thousand three hundred and forty-four, which he entered with the surveyor of Green county on the fifth day of September, one thousand seven hundred and ninety-eight, and on the thirteenth day of the same month, caused the same to be surveyed and recorded in said surveyor's office, after which said Moredock's house was unfortunately consumed by fire, and it is believed the original plat and certificate of survey was lost thereby, and it appears that said Moredock departed this life previous to said plat and certificate's having been registered, which has not yet been done; and it appears that the full amount of the State price has been paid into the treasury: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the Register of the land office to receive and register a certified copy of said survey, and issue a patent thereon to the legal heirs and representatives of the said Tobias Moredock, deceased, which shall be as valid to all intents and purposes, as if said survey had been registered on the original plat and certificate. But nothing herein shall in any manner affect the equitable interest of any person (if any there be.)

claiming title by assignment of the original plat and certificate.

1828.

Approved, January 28, 1828.

CHAP. 36.—An act for the benefit of the heirs of William Barker, deceased.

WHEREAS, it appears to this Legislature that William Barker, as assignee of James Markham, owned three tracts of land, of one thousand acres each, lying west of the Tennessee river, and that the said lands were entered for taxation as non-residents' land in the name of said James Markham, in the year one thousand eight hundred and twenty-two, and the tax regularly paid up to the year one thousand eight hundred and twenty-four, and that the same now stands forfeited for the non-payment of the tax for the years one thousand eight hundred and twenty-four, five and six, as appears by the Auditor's certificate: And whereas it further appears by said certificate, that William I. Barker (the son and one of the heirs of William Barker, who has departed this life,) in the year one thousand eight hundred and twenty-two, entered the said three tracts of land for taxation in the county of Mason, (where he now resides,) for the tax of that year and the year preceding, and that the same has been regularly entered for taxation in said county every year since, by reason whereof the tax has been twice paid for the years one thousand eight hundred and twenty-one, two and three, which tax amounts to the sum of five dollars sixty-two and a half cents: Therefore,

Recital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the forfeiture of the said three tracts of land of one thousand acres each, lying west of the Tennessee river, and patented in the name of William Barker, assignee of James Markham, be and is hereby released. And the Auditor is authorized to discontinue the said tracts of land on the non-residents' lists, and to issue a warrant in favor of the said William I. Barker, for the sum of five dollars sixty-two and a half cents, to be paid out of any money in the treasury not otherwise appropriated, deducting from said amount the cost of advertising and forfeiting of said lands.

Forfeiture of certain lands remitted.

Approved, January 28, 1828.

1828.

CHAPTER 37.—An act to legalize the proceedings of the trustees of the towns of Russellville and Madisonville.

Recital.

WHEREAS, it is represented to the present General Assembly, that by order of the board of trustees for the town of Russellville, Samuel H. Curd and William Stewart were directed to make a survey of the original plan of said town, with all the additions thereto, and also to lay down a correct plat of said town, and the said Curd and Stewart have made a survey and plat agreeable to the requisitions of the trustees, which has been confirmed and filed by the said trustees: And whereas it is represented that by some casualty the survey and plat of the town of Madisonville, in the county of Hopkins has been lost, and the trustees of said town did cause to be made a plat and survey of said town, which was confirmed by said trustees, and recorded by the Clerk for the board of trustees: Wherefore,

Plan of town of Russellville made out by Curd & Stewart in 1827 established.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the survey and plat of the town of Russellville, made out by Samuel H. Curd and William Stewart, which bears date the ninth day of October, one thousand eight hundred and twenty-seven, be the plan of the said town, and the trustees are hereby authorized and directed to have the same recorded in the Clerk's office of the county of Logan: *Provided however,* That nothing herein contained shall be so construed as to affect the vested rights and interest of the owners of lots in the said town.

Proviso.

Plan of Madisonville, made out by Rhea, established.

SEC. 2. *Be it further enacted,* That the survey and plat of the town of Madisonville, as made out by Robert Rhea, under the direction of the trustees of said town, on the twenty-second day of June, one thousand eight hundred and twenty-two, shall be the plan of the said town, and the said trustees are authorized and directed to have the same recorded in the Clerk's office for the county of Hopkins, and all other acts done or caused to be done by said trustees, shall be as valid and binding as if the original had never been lost.

Plan to be recorded.

Approved, January 28, 1828.

CHAP. 38.—An act establishing an additional precinct in Campbell county.

1828.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of the county of Campbell included within the following boundary, to-wit: Beginning at the mouth of Ripple creek, on the east side of Licking river; thence in a straight line to the Ohio river; thence up the Ohio river to the Pendleton line; thence with the Pendleton line to the Licking river; thence down Licking to the beginning—shall be and the same is hereby formed into an election precinct in said county of Campbell, which shall be called and known by the name of the Alexandria precinct.

Boundaries of the precinct.

SEC. 2. *Be it further enacted.* That the qualified voters within said precinct shall meet at the house of Benjamin D. Beall, in the town of Alexandria, to vote at all elections; and it shall be the duty of the County Court of Campbell county, from time to time, to appoint Judges and a Clerk to attend the elections in said precinct, in like manner as the law directs in similar cases; and on failure thereof the Sheriff shall appoint suitable persons to perform the duties. The Sheriff, Clerk and Judges shall be entitled to the same allowance for their services, to be paid in like manner, and subject to the same penalties, as is directed by law in similar cases; and the Sheriff shall be governed in comparing the polls, by the law regulating elections. *Provided however,* that nothing in this act shall be so construed as to prevent the qualified voters in said precinct from voting at the court-house in said county, or in the Visalia precinct heretofore established.

Elections to be held at Alexandria.

Judges and Clerk to be appointed to hold elections &c.

Proviso.

Approved, January 28, 1828.

CHAP. 39.—An act for the benefit of Thomas M. Smith, and to authorize the trustees of the Simpson County Seminary to sell her donation lands.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the President of the board of trustees of the Simpson County Seminary shall be and he is hereby authorized to convey to Thomas M. Smith the lands heretofore allotted him by the commissioners appointed by said board, in consideration of the services rendered by said Smith in locating lands and attending to other business for

Trustees of Simpson Seminary to convey to Smith part of the donation lands.

1828.

said Seminary, under the direction and while in the employ of said trustees.

And authorized to sell and convey the remainder.

SEC. 2. *Be it further enacted*, That said trustees, by themselves or agent, shall be and they are hereby authorized to sell and convey the remainder of any lands or any part thereof, to which they may have acquired title under the general law for the benefit of County Seminaries, or any special law for the benefit of said Simpson County Seminary, which sale or sales may be made for money in hand or upon credit, if said trustees shall deem it most advisable, and if upon a credit, bond and undoubted security shall be taken of the purchaser or purchasers to secure the purchase money.

To take from their collector bond and security.

SEC. 3. *Be it further enacted*, That said trustees shall take from any person who may be authorized by them to collect or receive the purchase money for said lands, or any part thereof, bond, with approved security, payable to themselves as trustees, conditioned for the payment of all such sums of money so by him received or collected; which bond shall be executed previous to the execution or delivery of the power to receive the said purchase money. And should the trustees fail herein, it shall not vitiate the sales, but they shall be liable to pay out of their own estates for any loss that may be occasioned on account of not taking said bond.

Condition thereof.

Proceeds of the lands to be applied to building a Seminary, &c.

SEC. 4. *Be it further enacted*, That the proceeds of the sale of said lands shall be applied by said trustees to the building a Seminary, or otherwise disposed of for the benefit of said Seminary.

Approved, January 28, 1828.

CHAP. 40.—An act to alter the time of holding the Hart Circuit Court, and to extend the term of the Todd Circuit Court.

Hart Circuit Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter the Circuit Court for the county of Hart, shall commence on the second Mondays in February, May and August, and sit six juridical days at each term, if the business require it.

Process issued therefrom returnable to the terms as hereby directed to be held.

SEC. 2. *Be it further enacted*, That all the process issued in said circuit, and returnable to the terms of said court, as heretofore established, shall be return-

able to the terms of said court, as hereby established.

1828.

SEC. 3. *Be it further enacted*, That whenever one week shall intervene between the termination of the Todd Circuit Court, and the commencement of the Logan Circuit Court, the presiding judge of said circuit shall continue the term of the said Todd Circuit Court for two weeks, if the business require it.

Terms of the
Todd Circuit
Ct. extended.

Approved, January 28, 1828.

CHAP. 41.—An act to alter the mode of taking in lists of taxable property.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act entitled *Act of 1825 repealed, &c.* "an act to alter the mode of taking the lists of taxable property," approved 19th December, 1825, be, and the same is hereby repealed, and that all laws in force at the passage of said act, regulating the mode of taking in the lists of taxable property, be, and the same are hereby re-enacted and declared to be in force, except an act entitled "an act further to regulate the valuation of taxable property in this Commonwealth," approved December 14th, 1824. *Provide.* *Provided however*, That the County Courts shall, in no case, appoint more than three commissioners in their respective counties.

SEC. 2. *Be it further enacted*, That the commissioners who may be hereafter appointed by the courts of the respective counties in this Commonwealth, to list and value the taxable property therein, shall value such property at what they may deem it worth in gold or silver. *Property to be valued in gold or silver.*

Approved, January 28, 1828.

CHAP. 42.—An act allowing an additional Justice of the Peace in Todd county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an additional Justice of the Peace be allowed to the county of Todd.

Approved, January 28, 1828.

1828.

Fines and forfeitures to be appropriated to the Seminary.

CHAP. 43.—An act for the benefit of the Hart county Seminary

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the fines and forfeitures heretofore assessed, and not otherwise appropriated, and all which may hereafter be assessed and accrue in the county of Hart, shall be vested in the Trustees of the Hart county Seminary, for the purpose of aiding in the building and completion of a Seminary of learning for said county.

Approved, January 28, 1828.

CHAP. 44.—An act for the benefit of Matthew H. Jouitt's heirs.

WHEREAS, it is represented to this General Assembly, that Edward Stockton did make sale of a certain tract of land, situate in the county of Bath, including the Indian field tract, which was vested in the heir of John Jouitt, deceased, to Buckner H. Payne, and that Matthew H. Jouitt, one of the heirs of said John Jouitt, deceased, did, on the 9th of February 1827, execute to said Stockton his letter of attorney, authorizing him to convey said tract, but that said Matthew H. Jouitt departed this life before the execution of said deed, leaving nine children, all of whom are infants and unable to convey; For remedy whereof:

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Edward Stockton be, and he is hereby vested with the same power and authority to execute a deed of conveyance, under said power of attorney, as he would have had if the said Matthew H. Jouitt were still alive, and said deed when executed, shall vest the title of said infant heirs, in the same manner as if the same had been executed by their ancestor in his life-time.

Approved, January 28, 1828.

CHAP. 45.—An act concerning the Bank of Kentucky.

Number of Directors reduced to four.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the passage of this act, there shall be only four Directors of the corporation styled "The President, Directors and Company of the Bank of Kentucky," two of whom shall be elected by the General Assembly, and the other two shall be elected by the Stockholders

of said corporation, in the same manner and subject to the same rules and regulations which have heretofore governed in the election of Directors of said institution. The President of the corporation and the Directors so chosen, shall have and possess all the powers which the President and Directors now have, and the President and any two of the Directors, or in the absence, or in case of the death or resignation of the President, any three of the Directors shall constitute a quorum of the board for the transaction of business.

1828.

SEC. 2. The salary of the President shall be eight hundred dollars per annum and no more, to be paid to him as heretofore; and the Directors shall receive for their services, in actual attendance on the business of the corporation, each, after the rate of two dollars per day: *Provided*, That the pay of no one Director shall exceed the sum of one hundred dollars per annum.

Salaries of the President and Directors.

SEC. 3. The President and Directors shall retain in the service of the corporation, one Clerk only, and they shall require the Cashier and Clerk, each in turn, to be and remain in their banking house during the night, to guard the same, unless the said Cashier and Clerk shall procure some trusty person, (to be approved of by the board) to discharge that duty, and for whose good conduct the Cashier and Clerk shall be responsible.

To be but one Clerk, and Cashier or Clerk to sleep in the bank.

SEC. 4. The charter of said corporation under the laws now in force, except so far as they are changed by this act, shall be, and the same is hereby continued and extended until the first day of January, one thousand eight hundred and thirty-six.

Charter extended.

SEC. 5. That it shall and may be lawful for the stockholders to hold an election on the second Monday in February next, for the number of Directors on their part allowed by the provisions of this act, and the said Directors thus elected to remain in office until the next annual election.

Stockholders to elect Directors on their part.

Approved, January 30, 1828.

CHAP. 46.—An act to establish an Inspection of Tobacco at Raleigh, in Union County.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an Inspection of

Inspection of tobacco established.

1828.

County Court
of Union to
appoint in-
spectors.

Tobacco be, and the same is hereby established in the town of Raleigh, on the Ohio river, in Union county, which Inspection shall be regulated by the laws now in force governing Inspections of Tobacco.

SEC. 2. *Be it further enacted,* That the County Court of Union, at their next July term, or at any subsequent term thereafter, a majority of the Justices in commission being present, shall proceed to nominate and appoint three fit and proper persons as Inspectors of said Inspection at said town of Raleigh, who shall be governed by the laws respecting Inspectors of Tobacco, and receive the same fees as are now allowed by law to such Inspectors.

Approved, January 30, 1828.

CHAP. 47.—An act to amend an act incorporating the Hartford Manufacturing Company.

Name changed

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the first section of said act be so amended as to change the name and style of said company, which shall be hereafter called and known by the name of "The President and Managers of the Hartford Manufacturing Company," by which name they shall be entitled to all the privileges and immunities vested by said act of incorporation in said company.

7th section of
former act re-
pealed.

SEC. 2. *Be it further enacted,* That the seventh section of the act to which this is an amendment, be and the same is hereby repealed.

Part of 8th
sec. repealed.

SEC. 3. *Be it further enacted,** That so much of the eighth section of the aforesaid recited act, as limits the number of shares to be held by any one individual to four, be repealed; and in voting upon all questions submitted to said company in general meeting, as well as in all elections for officers, where the members vote by stock, the following proportion shall be observed: for every share, not exceeding two, one vote each; for the next two shares, one vote; for every three shares above four and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; and for every ten shares thereafter, one vote.

Mode of vot-
ing by stock.

SEC. 4. *Be it further enacted,* That no individual or firm shall be considered a member of said compa-

ny, until the first installment shall have been paid; and if any stockholder shall fail to pay any proportion of said stock or installments called for by the President and Managers, at the time appointed for the payment thereof, every such stockholder shall, in addition to such installment, pay at the rate of one per centum per month for every delay of such payment; and if such installment, with the additional penalty, shall remain unpaid for the period of six months, the same may be forfeited by an order of the Board of Managers to the said company, upon giving such stockholder notice thereof in writing, at least thirty days previous; and if he shall pay up all arrearages and penalties, previous to the day to which he is cited, all proceedings of forfeiture of such stock shall cease; or in default of payment of any stockholder of any installments as aforesaid, the President and Managers may cause suit to be brought in any court of record having cognizance thereof, or before any Justice of the Peace, (as the case may be,) for the recovery of the same, together with the penalty aforesaid, but they shall not be entitled to both remedies; and after suit is brought, they shall relinquish all right to forfeit stock for a failure to pay such installment: *Provided however*, that nothing in this act shall be so construed as to authorize the said President and Managers to forfeit any stock that may fall into the hands of infants by reason of the demise of their ancestors, or to charge them with any penalty during their minority, but they shall be entitled to draw dividends on the amount of stock paid in.

SEC. 5. *Be it further enacted*, That when stock shall be forfeited as aforesaid, the person who held the same shall never thereafter be permitted to hold stock in said company without the special permission of the President and Managers, which shall be entered in the minutes of their proceedings.

SEC. 6. *Be it further enacted*, That no stockholder shall be eligible to any office in said company, or be allowed to vote in any case whatever, while in arrears for or on account of his stock.

SEC. 7. *Be it further enacted*, That in all elections for officers of said company, by the stockholders thereof, a plurality of votes shall be sufficient for a choice.

SEC. 8. *Be it further enacted*, That the corporation under the name and style mentioned in the first sec-

1828.

Penalties for failing to pay installments of stock when called for.

Stock may be forfeited for a failure to pay installments, &c.

Or suit may be commenced to recover the same and the penalty.

Provido.

Further penalty.

Stockholders not permitted to vote while in arrears.

Plurality of votes to elect officers.

Liabilities of the corporation.

1828.

tion of this act, shall be liable for all the debts contracted or causes of action which have originated and may exist against the corporation as it heretofore existed.

Approved, January 30, 1828.

CHAP. 48.—An act to authorize the appointment of additional Justices of the Peace in certain counties, and for other purposes.

Justices of the
Peace allow'd
in certain
counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county of Madison shall be entitled to one Justice of the Peace, in addition to the number now allowed by law; the county of Harlan one, the county of Whitley three, the county of Trigg two, the county of Pulaski one, the county of Caldwell one, the county of Calloway one, the county of Hardin one, the county of Mercer two, the county of Perry one, the county of Bath one, the county of Todd one, the county of Jefferson one, the county of Washington one, the county of Scott two, the county of Anderson one, the county of Rockcastle one, the county of Livingston one, the county of Wayne one. That the county of Morgan shall be entitled to one Constable in addition to the number now allowed by law, and the county of Bath one.

Constables al-
lowed.

Approved, January 30, 1828.

CHAP. 49.—An act for the benefit certain Sheriffs.

Preamble.

WHEREAS, it is represented to this General Assembly, that judgments in behalf of this Commonwealth were rendered at the present term of the General Court against John Ward, late Sheriff of Clarke county, Jesse Jackson, Sheriff of Muhlenburg county, and John Raglan, Sheriff of Allen county, and their securities, for the amount respectively due from them for the revenue of 1826, due and collectable in 1827; and it appearing proper that indulgence should be given to the defendants in said judgments: Therefore,

Stay of ex-
ecution order-
ed on judgm'ts
agt. Sheriffs of
Clarke, Muh-
lenburg and
Allen Coun-
ties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts is hereby directed not to issue any execution on said judgments, or either of them, until three months after the passage of this act; and if said Ward, Jackson and Raglan, shall severally pay into the treasury the principal, interest and costs of the judgments respective-

ly rendered against them as aforesaid, within the three month aforesaid, then the damages included in said judgments shall be and they are hereby remitted to the defendants so making said payments. *Provided however,* That this act shall not take effect as to either of said judgments, unless the principal defendant therein shall within thirty days from and after its passage, procure a writing from under the hands of his securities in the bond executed by him for the collection of the revenue, as follows: Whereas an act passed the General Assembly, approved—January, 1828, granting John Ward, Jesse Jackson and John Raglan the further time of three months, to pay their judgments rendered against them and their respective securities, for the balance of the revenue due from them as Sheriffs, for the revenue of 1826, collectable in 1827; now we the undersigned, being the securities for said Ward, Jackson or Raglan, (as the case may be,) hereby bind ourselves not to take any advantage of said act, in any manner whatever, so far as it may be understood to release our liability under said bond, on the judgment rendered thereon, in favor of the Commonwealth, at the January term, 1828, of the General Court; which said writing shall be tested and forwarded to the Auditor of public accounts within the time aforesaid, and shall preclude the said securities from filing any plea or bill, relying upon this act as a release, and the said Sheriffs shall be allowed within the time aforesaid, to make out their delinquent lists in pursuance to the law now in force, and upon making out the same, the Auditor shall allow said Sheriffs credit therefor.

1828.

Proviso.

Writing to be entered into by said Sheriffs and their securities before this act shall be available.

Further time given to return their delinquent lists.

Approved, January 30, 1828.

CHAP. 50.—An act to establish election precincts in certain counties.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of Todd county including the following bounds, to-wit: Beginning at Joshua Brockman's on the Christian county line, thence a direct line to the West Fork meeting house, thence a direct line to the Mount Gilead meeting house, thence due east to the Logan county line, thence with that line to the Tennessee State line, thence with the Tennessee State line to the Christian

Precinct in Todd county.

Boundaries.

1828.

Place of voting.

county line, thence with the same line to the beginning, shall be; and the same is hereby formed into an election precinct in said county of Todd, and that the qualified voters in said precinct shall meet at the house now occupied by Roger Sherman, in the town of Trenton in said precinct, for the purpose of voting at all elections.

Duty of the County Court to appoint officers to conduct the same

SEC. 2. *Be it further enacted*, That the County Court of Todd county shall and they are hereby authorized to appoint a Sheriff, Clerk and two Judges, to conduct all elections that may be holden in said election precinct in Todd county, subject to the same penalties and to be allowed the same fees for their services, as are now prescribed by law for other Sheriffs, Clerks and Judges of elections.

Shippingport precinct in Jefferson.

SEC. 3. *Be it further enacted*, That the town of Shippingport, in the county of Jefferson, shall compose an election precinct: it shall be the duty of the County Court of said county to appoint the necessary officers to conduct the elections in said precinct, and the Sheriff, Clerk and Judges, who shall be appointed to attend elections in said precinct, shall be under the same rules and regulations and receive the same compensation as the law directs in similar cases: the elections to be held in the house now occupied by Mrs. Mary Palmer, in said town, and the voters of said town shall not be allowed to vote at any other place in said county.

Duty of the County Court

Place of voting.
Voters in said precinct not to vote elsewhere.

Precinct in Oldham c'ty.

SEC. 4. *Be it further enacted*, That all that part of Oldham county included in the following boundary, to-wit: Beginning at John Shrader's, running thence to John Brown's on Curry's fork of Floyd's fork, thence a direct line to the Henry road at Daniel Caplinger's, thence a direct line to Taylor's mill on Floyd's fork, thence with the Shelby road to the county line, thence with said county line to the beginning, shall be erected into an election precinct, the elections held in said precinct to be held at the house called the old tavern, in the town of Floydsburg, and it shall be the duty of the County Court of said county to appoint the necessary officers to conduct the elections in said precinct, and they shall be under the same regulations and receive the same compensation as the law directs in similar cases, and the voters within the bounds of said precinct shall not be allowed a vote at any other place in said county.

Boundaries.

Place of voting.

Voters in said precinct not to vote elsewhere.

SEC. 5. *Be it further enacted,* That all that part of Mason county included within the following boundary, to-wit: Beginning at the mouth of Kennedy's creek, and running thence down the Ohio river to the mouth of the branch at Beasley's bar, a short distance below Maysville, thence up the said branch so far as to range with a line to be drawn along the top of the river hill, thence up to and along the top of said hill, across its several breaks from point to point, with its various windings so as to embrace the whole face of said hill fronting the river, and to continue until the said line shall strike Kennedy's creek, thence down the same to the place of beginning, shall be and is hereby formed into an election precinct in said county of Mason.

1828.

Maysville precinct in Mason.

Boundaries.

SEC. 6. *Be it further enacted,* That the County Court of Mason shall, annually at the same time that officers are appointed for holding the election at the court house, also appoint officers for holding the election in said precinct, and shall also direct in what house in the town of Maysville the said election shall be held, of which the Sheriff shall give public notice, by advertising the same at the door of the court house, so soon as the place shall be fixed as aforesaid, and the qualified voters residing within said precinct shall not be at liberty to vote at any place except at the place appointed to hold said election within the town of Maysville, or at the court house, and the officers appointed to hold the said election shall be under the same regulations and receive the same compensation as the law now directs in similar cases.

Duty of City Court.

Place of voting therein to be designated by the County Court.

SEC. 7. *Be it further enacted,* That all that part of the county of Bracken included within the following bounds, to-wit: Beginning on the Mason county line at Germantown, running from thence so as to include in the precinct that part of Germantown which lays in the county of Bracken, thence with the road leading from said town to Woodward's cross roads, thence a straight line to the Pendleton county line, including in said precinct, the farm of John M. Blackerby, Esq. thence with the Pendleton, Harrison, Nicholas and Mason county lines to the beginning, shall be an election precinct, and the place of holding all legal elections in said precinct, shall be at the house at present occupied by John Powers, in said precinct: it shall be the duty of the County Court of Bracken to appoint Judges and a Clerk, whose duty it shall be, together

Precinct in Bracken.

Boundaries.

Place of voting.

Duty of City Court.

1826.

Former act repealed.

Proviso.

Duties and fees of officers attending elections.

Voters in precinct formed by the first section may vote at the court house.

Penalty for voting more than once at the same election.

Sheriffs, &c. to compare polls, &c.

with the Sheriff or deputy Sheriff of said county, to attend all elections in said precinct; and the act entitled, "an act to establish an election precinct in the county of Bracken," approved 20th February, 1808, be and the same is hereby repealed: *Provided however*, That nothing herein contained shall be so construed as to prevent any of the qualified voters residing in said precinct from voting at the seat of justice.

SEC. 8. *Be it further enacted*, That the Judges and Clerks appointed under this act, together with the Sheriff, shall perform such duties and receive such compensation as are prescribed and allowed by law.

SEC. 9. *Be it further enacted*, That nothing contained in this act shall be so construed as to prevent the qualified voters in the precinct, in the first section mentioned, from voting at the court house.

SEC. 10. *Be it further enacted*, That the qualified voters in the several precincts established by this act, shall be subject to the same penalties prescribed by law for the offence of voting more than once at the same election.

SEC. 11. *Be it further enacted*, That the Sheriff or other officer, conducting every election at the aforesaid precincts, shall meet at the court house in the several counties on the Friday next after the election, to compare the polls.

Approved, January 30, 1828.

CHAP 51.—An act to authorize the administrators of William C. Davis, deceased, to carry into execution a parol contract made by said Davis in his life-time, with Edward S. Hall, for five or six acres of land.

Recital.

WHEREAS, it is represented to this Legislature that William C. Davis, about the year one thousand eight hundred and seventeen or one thousand eight hundred and eighteen, entered into a written contract with a certain Edward S. Hall, for five or six acres of land or thereabouts, lying in Todd county, and that afterwards, to-wit: in the year 1825, the said Davis and Hall made another parol contract, by which they cancelled the contract first mentioned, by which parol contract the said Davis purchased of said Hall eleven acres of land, including the five or six acres first purchased, and that said Davis, after having made said written contract, erected a grist and saw mill thereon, but departed this life before the

same was perfected by receiving a deed therefor: And whereas it is represented, that the said Edward S. Hall is willing to carry into execution said last mentioned contract by conveying the same, so soon as the purchase money is paid; and whereas doubts are entertained by the administrators whether they have authority to carry said parol contract into execution: Therefore,

1828.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Robert Harrison and Henry C. Ewing, administrators of William C. Davis, deceased, shall be, and are hereby vested with authority to carry said parol contract into execution, by paying, out of any assets in their hands, or which may come to their hands, to be administered, the amount of the purchase money due to the said Edward S. Hall, for the land purchased by the said William C. Davis in his life-time, upon the said Hall executing a deed in fee simple, to the heirs at law of said Davis, with such warranty as was agreed upon by the parties to the contract made by parol as aforesaid.

Commissioners appointed to effectuate the contract.

Approved, January 30, 1828.

CHAP. 52.—An act for the benefit of the trustees of the Morgan Seminary, and for other purposes.

WHEREAS, it is represented to the present General Assembly, that the lands donated to the Morgan Seminary, have (or the greater part thereof,) been carried into grant, by the agent appointed for that purpose, by the County Court of said county, agreeably to the laws now in force in relation thereto; that the said lands are mostly of an inferior quality, worth but little and greatly inadequate to the purpose of erecting a suitable building as a Seminary; and that if said lands are permitted to be sold by said trustees, and the proceeds vested in the completion of the court-house of said county, the result will prove more beneficial to the inhabitants of said county, and the benevolent intentions of the law in relation thereto, more completely carried into effect: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of said Seminary, (or a majority of them,) may, and they are hereby authorized to proceed, (after the locator may have been assigned so much of said land as he is on-

Trustees authorized to sell the Seminary land.

1828.

May apply
proceeds in
aid of the
county levy.

titled) to sell the residue of said lands, and if they shall think it most expedient to place the proceeds thereof, at the option and under the control of the County Court of said county, to be applied in aid of the county levy, to the completion of the court-house thereof.

Duties of the
trustees and
of the County
Court.

SEC. 2. *Be it further enacted*, That it shall be the duty of the said trustees, at the court at which they may agree to apply the same, and the County Court to receive it to be applied in manner aforesaid, to request, and the court are required to make an order setting forth the facts, the purpose to which the same is to be applied, and the real or probable amount so vested, after which the County Court shall have power to dispose of the same as they may think most advisable toward the purpose aforesaid.

Trustees may
use the court
house as a
Seminary, &c.

SEC. 3. *Be it further enacted*, That the County Court, at the time of making the order aforesaid, shall make an order delegating to said trustees and their successors in office, the right to enter, use and occupy said court-house as a Seminary of learning, at all times, free from restraint, save on Circuit Court, County Court and General Election days in said county: *Provided however*, That if the said County Court shall thereafter deem it proper and expedient, they may, out of the county levy of said county, pay to said trustees or their successors, the amount of money so by them vested as aforesaid; at the time of which payment made as aforesaid to said trustees, the right of said trustees to the use of said court-house as aforesaid, shall cease and determine.

Proviso.

Duty of City
Court.

SEC. 4. *Be it further enacted*, That it shall be the duty of the County Court of Morgan, before or at the time of making the order, returning the money so invested in the hands of said court, to require of the trustees of said Seminary, a bond with good security, to be approved of by said court, in a penalty at least double the amount so to be returned, conditioned for the faithful appropriation of the same, to the purposes of erecting a County Seminary, in pursuance of the intent of the Legislature, in granting Seminary lands to the several counties, and of the several acts amendatory thereto, which bond shall be made payable to the Commonwealth of Kentucky.

Approved, January 30, 1828.

CHAP. 53.—An act to incorporate the Clay and Jefferson Sem-
naries.

1828.

WHEREAS, it is represented to the present General Assembly, that certain individuals, in and near the town of North-Middletown, in Bourbon county, have, by private contributions, procured a lot of ground in said town, and erected thereon a brick building, a part of which is appropriated to religious worship, a part to a Masonic Hall, and a part to the purposes of a literary institution: And it being also represented, that the said individuals are desirous that the title to said lot of ground shall be vested in the trustees of North-Middletown, and that as a means of increasing the utility and permanency of said literary institution, the same shall be incorporated: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the trustees of said town of North-Middletown be, and they are hereby authorized and empowered to receive a conveyance of said lot of ground, and to hold the same, to them and their successors in office, for the purposes aforesaid.

Trustees of N. Middletown authorized to receive a deed for a lot.

SEC. 2. *Be it further enacted,* That a Seminary of learning be, and the same is hereby established at said town, in the county aforesaid, to be called and known by the name of "The Clay Seminary," and that James Sims, Thomas M. Parrish, William Rogers, Joel Corrinton, John Herriott, James M. Cogswell and Alexander Dickey be, and they are hereby appointed trustees of said Seminary, and are hereby constituted a body politic and corporate, and to be known by the name and style of "The Trustees of the Clay Seminary," and by that name shall have perpetual succession and a common seal.

Seminary established at N. Middletown.

SEC. 3. *Be it further enacted,* That upon the death, resignation or removal of any of said trustees or their successors, a majority of the remaining trustees shall have power to fill any such vacancy or vacancies, and the person or persons so appointed, shall possess the same powers and privileges as if named in this act, and by the name and style of the trustees of Clay Seminary, may sue and be sued, plead and be impleaded, in any court of law or equity.

Trustees appointed and incorporated.

Vacancies how filled.

Corporate powers of the trustees.

SEC. 4. *Be it further enacted,* That the said trustees and their successors, shall have power and they are hereby authorized to receive donations of money,

May receive donations of money or property.

1828.

Duties of the trustees.

lands or other property, for the use and benefit of said Seminary.

SEC. 5. *Be it further enacted*, That it shall be the duty of said trustees to assemble at least once in every six months, or oftener if they should think proper, and make such examination into the progress of the students and management of the institution as they deem necessary.

Powers of the trustees.

SEC. 6. *Be it further enacted*, That a majority of said trustees shall form a quorum to do business, that they shall have power, from time to time, to select a teacher or teachers, and to enact and make such rules and by-laws for the government of said institution, as they may deem expedient, not contrary to the laws of this Commonwealth.

Further preamble.

AND WHEREAS it is represented to the present General Assembly, that certain individuals in Barren county, near the Bear wallow, have, by private contributions, procured a lot of ground, and have erected thereon a brick building, intended for literary purposes, and in order to increase the utility and permanency of the literary institution as aforesaid.

Seminary established near the Bear Wallow.

SEC. 7. *Be it therefore further enacted*, That a Seminary of learning be, and the same is hereby established in Barren county, near the Bear wallow, at the brick building erected as aforesaid, to be called and known by the name of "the Jefferson Seminary," and that Robert Ferguson, Sylvanus M. Bagby, William Douglass, William Savage, Joseph Paxton and Samuel P. Bowdery be, and they are hereby constituted a body politic and corporate, and to be known by the name and style of "the Trustees of the Jefferson Seminary," and by that name shall have perpetual succession and a common seal.

Trustees appointed therefor.

Name.

Vacancies in board of trustees how fill'd

SEC. 8. *Be it further enacted*, That upon the death, resignation or removal of any of said trustees or their successors, a majority of the remaining trustees shall have power to fill any such vacancy or vacancies, and the person or persons so appointed, shall possess the same powers and privileges as if named in this act, and by the name and style of the trustees of the Jefferson Seminary, may sue and be sued, plead and be impleaded, in any court of law or equity.

Corporate powers.

Trustees authorized to receive a conveyance for a lot of ground.

SEC. 9. *Be it further enacted*, That the said trustees and their successors, shall have power and they are hereby authorized to receive the conveyance to the lot of ground on which said Seminary stands, and to

receive donations of money, lands or other property, for the use and benefit of said Seminary.

1828.

SEC. 10. *Be it further enacted*, That it shall be the duty of said trustees, to assemble at least once in three months, or oftener if they think proper, and make such examination into the progress of the students and management of the general concerns of the institution as they may deem necessary.

Duties of the trustees.

SEC. 11. *And be it further enacted*, That a majority of the said trustees shall form a quorum to do business, that they shall have power, from time to time, to select a teacher or teachers, and to make and enact such rules and by-laws, for the government of said institution, as they may deem expedient, not contrary to the laws of this Commonwealth. The power to repeal, alter or modify this act is reserved to the General Assembly.

Powers and duties of the trustees.

Approved, January 30, 1828.

CHAP. 54.—An act to authorize the inhabitants of the town of Brownsville, in the county of Edmonson, to elect trustees.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the free white male inhabitants of the town of Brownsville, (and such like persons as own real estate in said town) who are eighteen years old be, and are hereby authorized to convene on the fourth Monday in May 1828, and annually thereafter, for the purpose of electing five suitable persons for trustees of said town, according to the laws now in force upon the subject of electing trustees.

Citizens of Brownsville may elect trustees.

Election when to be held.

SEC. 2. *Be it further enacted*, That said trustees, when so elected, and being qualified according to law, shall have power to do all and every thing in relation to the government and police of said town, that trustees of other towns have, by any general law of this Commonwealth, and shall perform all duties by such general laws imposed on trustees of towns: Said trustees so elected, shall have power to fill vacancies, and shall continue in office until others are elected, and they shall keep a record of their proceedings.

Powers of the trustees.

Their duties.

Approved, January 30, 1828.

1828.

CHAP. 55.—An act to appoint additional Constables in certain counties.

One additional Constable allowed to Harrison county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That one additional Constable be allowed, and appointed in and for the county of Harrison, to reside in the bounds of Captain Tarlton Rouland's company of militia.

One to Nelson.

SEC. 2. *Be it further enacted,* That one additional Constable be allowed and appointed in and for the county of Nelson, to reside in the south side of the Beach fork.

Two to Hardin county.

SEC. 3. *Be it further enacted,* That the County Court of Hardin be authorized to appoint two additional Constables, one to reside in the town of West Point or its neighborhood, and one in the Level Woods.

The county of Perry one.

SEC. 4. *Be it further enacted,* That the County Court of Perry be authorized to appoint two additional Constables in said county.

The county of Christian three.

SEC. 5. *Be it further enacted,* That the County Court of Christian county shall be and they are hereby authorized to appoint three additional Constables in and for said county, to reside in the District of Temple West, Constant Oglesby and John Pendleton, Justices for said county.

Oldham county one.

SEC. 6. *Be it further enacted,* That Oldham county shall be entitled to an additional Constable, and that the County Court shall divide the Bradford District, and appoint a Constable in that part which will not include the residence of the present Constable in said District.

One to Henry.

SEC. 7. *Be it further enacted,* That there shall be an additional Constable appointed in the Dutch tract in Henry county.

Approved, January 30, 1828.

CHAP. 56.—An act to establish election precincts in certain counties.

Precinct in Pendleton.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of the county of Pendleton within the following bounds, to-wit: Beginning at the mouth of Forklick creek, thence up the same to the Grant county line, thence with the Grant county line to the Harrison county line, and with said line to the south fork of Licking,

Boundaries.

thence down the same to the beginning, shall constitute an election precinct, and the elections shall be held at the house of Thomas Dauce.

1828.

SEC. 2. *Be it further enacted,* That the County Court of Pendleton, shall at the term they appoint Judges and a Clerk to attend any election to be held at the court house in the county of Pendleton, appoint Judges and a Clerk to attend the respective elections at said precinct, who shall execute the duties assigned them under the several laws regulating elections, and the Sheriff of said county shall, by himself or deputy, attend the elections to be held at said precinct, and it shall be the duty of the Sheriff attending any election at the precinct to meet the Sheriff of the county at the court house, on the Thursday after the commencement of the election, to compare the polls.

Duty of the
County CourtDuty of Sher-
riff.

SEC. 3. *Be it further enacted,* That all that part of the county of Boone within the following bounds, to-wit: Beginning at the mouth of Steep gut on the Ohio river, thence a straight line to the mouth of Ashby's fork on Woolper creek, thence a straight line to Rowland Boot's, thence a straight line to John H. Moore's on the said river, and down the same to the beginning, shall constitute an election precinct, and the election shall be held at the Academy on the public ground, in the town of Petersburg.

Precinct in
Boone.

Boundaries.

Place of vo-
ting.

SEC. 4. *Be it further enacted,* That the County Court of Boone shall, at the time they appoint Judges and a Clerk to attend any election to be held at the court house in the county of Boone, appoint Judges and a Clerk to attend the respective elections at said precinct, who shall execute the duties assigned them under the several laws regulating elections, and the Sheriff of said county, shall, by himself or deputy, attend the elections to be held in said precinct, and it shall be the duty of the Sheriff attending any election at the precinct to meet the Sheriff of the county at the court house, on the Thursday after the commencement of the election to compare the polls: *Provided however,* The voters in said precinct shall not be prohibited from voting at the court house at any election held in the county of Boone.


Duty of the
County CourtDuty of Sher-
riff.

Proviso.

SEC. 5. *Be it further enacted,* That all that part of the county of Allen included within the following bounds: Beginning on Big Barren river, at the mouth of Long creek, thence up the creek to the State line,

Precinct in
Allen.

Boundaries.

1828.  thence with the State line to the Monroe county line, thence with the Monroe county line to the Barren county line, thence with the same to Barren river, thence up the same to the beginning, be, and is hereby erected into an election precinct, and that the qualified voters in said precinct may meet at the house of Richardson P. Hughes, in said precinct, for the purpose of voting in all legal elections.
- Place of voting. Sec. 6. *Be it further enacted,* That all that part of the county of Logan within the following bounds, to-wit: Beginning on the road leading from Russellville to Greenville, where said road strikes the Muhlenburg line, to run from thence to Joseph Brantley's farm on the road from Russellville to Morgantown, from thence to David Price's, on the road from Russellville to Bowlinggreen, from thence with said road to the Warren county line, thence with said line to the Butler county line, thence with said county line to the Muhlenburg county line, thence with said line to the beginning, shall constitute an election precinct, and the qualified voters in said precinct shall meet at the house of William Black, for the purpose of voting all at legal elections.
- Precinct in Logan. Boundaries.
- Place of voting. Sec. 7. *Be it further enacted,* That all that part of the county of Butler within the following bounds, to-wit: Beginning at the mouth of Muddy river and running up said river to the Logan county line, thence with said line until it strikes the main branch of Big Muddy creek, near James Cook's mill, thence down the same to its mouth on Green river, thence down Green river to the beginning, shall be an election precinct, and the qualified voters in said precinct shall meet at the house of Dennis Mahone, or at any other place the County Court may direct in said precinct, for the purpose of voting at all legal elections.
- Precinct in Butler. Boundaries.
- Place of voting. Sec. 8. *Be it further enacted,* That the place of voting in the Short creek precinct, in the county of Grayson, shall hereafter be at Porter's mill in said precinct.
- Place of voting in Short creek precinct in Grayson changed. Sec. 9. *Be it further enacted,* That all that part of Mason county, lying within the following boundaries, to-wit: Beginning on the road leading from Washington to Germantown, at the brick house formerly occupied by Rickets, and now belonging to Thomas T. Worthington, and running with said road to Germantown, and with the southern boundary of said town to the Bracken line, thence with the Bracken line to the Ohio river, thence up the Ohio river and
- Minerva precinct in Mason. Boundaries.

binding thereon to the mouth of Lawrence's creek, thence by a direct line to the place of beginning, including said brick house; shall constitute one election precinct, and the qualified voters therein shall vote at such place in the town of Minerva, as the County Court shall appoint when they appoint the officers to preside at the election.

1828.

Place of voting.

SEC. 10. *Be it further enacted,* That all that part of the county of Mason, lying within the following boundaries, to-wit: Beginning at the mouth of Kennedy's creek on the Ohio river, thence along the road running up said creek to where it intersects the road from Washington to Williamsburgh, at John Marshall's Blacksmith shop, thence with the road leading towards Mayslick, until it intersects the road from Washington to Taylor's mill, thence with said road to Taylor's mill, and with the new cut road leading to Flemingsburgh, until it intersects the Fleming line, thence with the Fleming and Lewis county lines to the Ohio river, and down the same to the beginning, shall constitute one other election precinct, and the qualified voters therein shall vote at such place in the town of Williamsburgh, as the County Court of Mason shall direct when said Court shall appoint the officers to preside at said elections.

Williamsburgh precinct in Mason.

Boundaries.

Place of voting.

SEC. 11. *Be it further enacted,* That so much of the Mayslick precinct as falls within the boundary mentioned in the section last aforesaid, shall no longer be considered as constituting a part of the Mayslick precinct.

Mayslick precinct curtailed.

SEC. 12. *Be it further enacted,* That all that part of the county of Wayne bounded by Otter creek on the north and east, the State and Cumberland county line on the south, and Russell county on the west, shall be and the same is hereby made an election precinct, and all the qualified voters within said boundary shall vote at the house of Reuben Owens, in said county, on the day or days appointed by law, for holding elections in this Commonwealth.

Precinct in Wayne.

Boundaries.

Place of voting.

SEC. 13. *Be it further enacted,* That the County Courts of the aforesaid counties, at the time they appoint Judges and Clerks of elections to be held at the court houses, shall also appoint Clerks and Judges to preside at the said precincts, and it shall be the duty of the Sheriffs of said counties by themselves or deputies, to attend to and conduct the elections to be held in said precincts, which elections

Duty of C'ty. Courts to appoint officers to attend to elections.

Of Sheriffs to attend and compare votes.

1828.

shall be governed by the same rules and regulations as now prescribed by law: And the Sheriffs who preside at the elections to be held in said precincts, shall meet the Sheriffs who preside at the court houses on the fourth day after the commencement of elections, at the court houses of the several counties and compare the polls, and make returns agreeable to law and the constitution.

Voters may vote at their court houses. SEC. 14. *Be it further enacted,* That nothing herein contained shall be so construed, as to prevent the voters in the several precincts hereby established from voting either at their court houses or precincts.

Precinct in Jefferson. SEC. 15. *Be it further enacted,* That all that part of the county of Jefferson included in the following boundary, to-wit: Beginning at the mouth of Cane run on the Ohio river, thence crossing the Salt river road at the lower end of Charles Smoots' plantation, thence on to the three wells at the lick, thence with the Shepherdsville road to the Bullitt line, thence with the Bullitt line to the Ohio river, thence with the river to the beginning, shall be erected into an election precinct; all elections held in said precinct to be held at the house at present occupied by John Shively, and it shall be the duty of the County Court of said county to appoint the necessary officers to conduct the election in said precinct, and they shall be under the same regulations and receive the same compensation as the law directs in similar cases.

Boundaries.

Place of voting.

Additional precinct in Jefferson. SEC. 16. *Be it further enacted,* That all that part of the county of Jefferson included in the following boundary, to-wit: Beginning at the three wells of the Lick, thence to the upper line of James Hite's farm on the Bardstown road, thence with the road to the Bullitt county line, thence with the Bullitt county line to the Shepherdsville lick road, thence with that road to the beginning, shall be erected into an election precinct, and all elections held in said precinct to be held in the house at present occupied by Alexander Galbreath; and it shall be the duty of the County Court of said county to appoint the necessary officers to conduct the elections in said precinct, and they shall be under the same regulations and receive the same compensation as the law directs in similar cases: And the Sheriffs or persons acting as such at the several precincts in said county, shall meet at the court house on the Thursday succeeding

Boundaries.

Place of voting.

Duty of C'ty. Courts to appoint officers to conduct the elections. Of Sheriffs to attend and compare polls &c.

the close of the election, compare the polls and give the certificates required by law.

1828.

SEC. 17. *Be it further enacted*, That the elections in the precinct in Cumberland county shall hereafter be held at the house of Pleasant H. Williams, instead of the place heretofore authorized by law.

Place of voting in precinct in Cumberland.

SEC. 18. *Be it further enacted*, That the place of holding the election in the Rolling fork precinct in the county of Casey, be changed to the house of William Cabel.

Place of voting in Rolling fork precinct in Casey.

Approved, January 30, 1828.

CHAP. 57.—An act farther to regulate the town of Shepherdsville.

WHEREAS, the trustees of Shepherdsville have purchased a slip of land eighty feet wide, adjoining the town on the west, and opened on said slip a street called West street, and a piece of ground adjoining West street for a grave yard, and for the purpose of paying for said slip, they have reduced Third street in said town from eighty feet in width to forty feet, and have laid off on the part taken from Third street, fifteen lots, part of which they have sold and conveyed: Therefore,

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the purchase of said slip and grave yard by the trustees of Shepherdsville, be confirmed, and the same is hereby incorporated and included within the limits of said town and the powers of the trustees extended thereto, and they are authorized to receive conveyances for the same.

Purchase of a piece of ground by the trustees of the town confirmed, and the same added to the town.

SEC. 2. *Be it further enacted*, That the reduction of Third street in Shepherdsville, from eighty to forty feet be, and the same is hereby confirmed, also the sale and conveyance of the lots laid off on the part taken from Third street, and the said trustees and their successors are authorized and empowered to sell and convey the residue of said lots.

Reduction of Third street in width confirmed, and the sale of lots authorized to be made.

Approved, January 30, 1828.

CHAP. 58.—An act to amend an act entitled, "an act to encourage the establishment of private schools."

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the parents and

1828.

Parents and
guardians to
elect trustees.

Proviso. ;

Trustees how
long to con-
tinue in office.

Law autho-
rizing County
Court to ap-
point trustees
repealed.

Subscribers to
adopt consti-
tution and
by-laws for
government
of trustees.

Principal
teacher to
make report
to City Court.

Subscriptions
authorized in
aid of build-
ing, improv-
ing or repair-
ing school
house.

Subscription
paper assign-
able.

Assignee may
sue thereon in
his own name.

guardians of children, who shall be entered or sub-
scribed as scholars, to any private school established
according to the act to which this is an amendment,
shall have the same power to elect trustees thereof
originally, which is now possessed by the several
County Courts of this Commonwealth: *Provided how-
ever*, That it shall be necessary for a majority of the
parents and guardians, so subscribing scholars, to be
present at such elections.

SEC. 2. *Be it further enacted*, That the trustees so
elected, may continue in office one year and until
their successors shall be duly elected, and in case of
death, removal or resignation, of any of them, the
vacancy shall be filled by the board of trustees for
the time being.

SEC. 3. *Be it further enacted*, That the law, so far
as County Courts are authorized to appoint trustees
to such schools, is hereby repealed.

SEC. 4. *Be it further enacted*, That the subscribers
to such private schools shall adopt such a constitution,
by-laws and rules, as they may deem proper, for
the government of the trustees elected as aforesaid,
and alter or amend the same from time to time.

SEC. 5. *Be it further enacted*, That the principal
teachers in all such schools, shall make an annual
report to the County Courts, of the course of study
and books used, as well as the number of scholars
taught during the preceding year in any such schools.

SEC. 6. *Be it further enacted*, That for the purpose
of building, improving or repairing, any school house,
a subscription paper may be prepared, plainly setting
forth the objects to be effected by contributions or
subscriptions, and all sums of money or other thing
that may be subscribed by any person or persons,
shall be recoverable in law, at any time within five
years next after making such subscription, upon the
terms or conditions stipulated in such subscription
paper, (if any) having been complied with, and such
subscription paper shall be assignable in the same
manner as other writings now are by law, and where
there is no particular person or persons named in
such subscription paper to whom the money or prop-
erty is made payable, then upon the conditions
having been complied with, by any person or persons
employed by the subscribers or a majority of them,
he or they may maintain in his or their own name or
names, a suit or warrant against any such subscriber,

for the amount or thing subscribed, and in all such cases, each subscriber shall be severally answerable for the amount subscribed by him. 1828.

Approved, January 30, 1828.

CHAP. 59.—An act to amend an act further to regulate the Christian Academy, approved January 17, 1817.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that the trustees of the Hopkinsville Female Academy, have proposed to the trustees of the Christian Academy to procure certain improvements to be made to the building erected for the use of said Christian Academy, on condition they be permitted to participate in the control of the same: And whereas, said building when finished, is suitable, sufficiently large and commodious for a female as a male school: Therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That George Ward, James I. Dozier, John Bryan and Otway Wilkinson, be appointed additional trustees for the Christian Academy, and that a majority of the whole number of the trustees of the Christian Academy, may assign such parts of said building as they may think necessary for the purposes of female education, and shall have power to engage and employ a competent number of tutors or professors, for the female department of said Academy, to fix their salaries and terms of tuition, and for the misconduct of the tutors, professors or students, may dismiss such tutors, professors or students, from the Academy, and may likewise make such rules and regulations for the government of the same, as they may deem advisable.

SEC. 2. *Be it further enacted,* That said trustees shall have the same powers in relation to the male department of said Academy, and that hereafter, they shall be elected annually, on the second Monday in April, by the subscribers to said institution. The election to be held at the court house in Hopkinsville, by the President and Secretary of the board of trustees.

SEC. 3. *Be it further enacted,* That the said trustees shall have power to fill all vacancies that may happen, and shall continue in office until their successors are duly elected and qualified.

Approved, January 31, 1828.

1828.

CHAP. 60.—An act to open a State road from Elizabethtown, by way of Litchfield, Hartford and Madisonville, to Princeton in Caldwell county.

Recital.

WHEREAS, it appears that it would greatly conduce to the interest of the public, to cause a road to be opened from Elizabethtown in Hardin county, by way of Litchfield, Hartford and Madisonville, to Princeton, so as to intersect at that place, the State road leading from Hopkinsville to Smithland, at the mouth of Cumberland river, from which point the interior of the country could be more conveniently supplied with salt, sugar, iron and other necessary articles, and from which it would be convenient to ship to foreign markets, the produce of our country: Wherefore,

Commissioners appointed to view and mark out a road leading through the above named place to intersect the road leading from Princeton to Smithland.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Martin Hardin of the county of Hardin, Frederick Kelly of the county of Grayson, Stephen Stateler of the county of Ohio, David Short of the county of Muhlenburg, William Gordon of the county of Hopkins, and John Wilcox of the county of Caldwell, be, and they are hereby appointed commissioners, whose duty it shall be, or a majority of them, to view and mark out the best, most direct and practicable way, for a road from Elizabethtown in Hardin county, by way of Litchfield in Grayson county, Hartford in Ohio county, Madisonville in Hopkins county, to Princeton in Caldwell county, so as to intersect the main road leading through that place to Smithland, at the mouth of Cumberland river.

Powers of the County courts

SEC. 2. *Be it further enacted,* That the several County Courts through which the road shall pass, may, at their next County Court thereafter, or as soon as practicable, lay off so much of said road as shall pass through their several counties, into convenient precincts, and appoint to each an overseer, and allow to each overseer a sufficient number of hands, to perform the necessary labor within his bounds; and it shall be lawful for each of said overseers to give all persons within his bounds, a legal notice of the time and place of working on said road; and the said overseer and hands shall, in all other respects, be governed by the laws now in force in relation to working on roads; and it shall be the duty of said overseers to cause the said road to be opened thirty feet wide, the stumps well cut, the banks of

Overseers and hands to be governed by the laws in relation to roads.

creeks and other sideling places to be well dug, and all marshy places to be well cause-wayed, so as to admit of a convenient passage for wagons. 1828.

SEC. 3. *Be it further enacted*, That each of the said commissioners so employed, shall receive for his services, one dollar for each day that he may be necessarily employed in the duty prescribed by this act, which shall be paid by the respective counties through which said road passes, rateably to the extent of said road in each county. Pay of Com'rs and the mode of payment.

SEC. 4. *Be it further enacted*, That it shall be the duty of the aforesaid commissioners to make report to their several County Courts of their proceedings, also through whose land the said road will lead, if opened, and report in what county the said land lies: whereupon it shall be the duty of the several County Courts to issue summons against the owner of said land, who may reside in their respective counties, returnable to the court next succeeding the making said report, to shew cause, if any, why the said road should not be opened, and upon the appearing of the said owners or occupiers, and protesting against the opening of said road, it shall be the duty of such County Court. when application may be made, to award a writ of ad quod damnum, directed to the Sheriff of the county in which such application may be made, whose duty it shall be to summon twelve good and lawful Jurors, to ascertain and assess what damage, if any, the said applicant will sustain by reason of said road leading through his land, and the said Sheriff shall, in all other respects, proceed to execute said writ in pursuance of the law now in force in relation to writs of ad quod damnum. Com'rs to make reports to their City Courts thro' whose lands the road passes. Duty of the County Court thereupon.

SEC. 5. *Be it further enacted*, That upon the return of said writ or writs, to any of the several counties aforesaid, it shall be the duty of the said County Court to receive the same, and if they deem it expedient, direct the opening of the said road, in pursuance to the second section of this act. Duty of the Court on the returns of the writs of ad quod damnum to open the road.

SEC. 6. *Be it further enacted*, That the said County Courts, where any writ or writs aforesaid, may be returned to them, awarding or assessing to any individual or individuals any damages, it shall be the duty of said court to whom such return may be made, if they deem it expedient, at their next court of claims to cause to be entered up, an order in favor of the said individual or individuals, for the amount May assess damages on the county to be allowed at the Courts of Claims in favor of the owners of land.

1828.

To be paid
over by the
Sheriff of the
county.

C'ty Courts
may appoint
com'rs in cer-
tain cases.

Com'rs to
meet in Eli-
zabethtown in
Sept. 1828, to
discharge the
duties requir-
ed.

of the damages sustained by them respectively, as evidenced by the verdict of said Jurors, and shall lay a levy sufficient to cover the amount of said claims; and it shall be the duty of the Sheriff to pay over to such individuals in whose favor the said order may be entered up, as other county claims, and on failure to do so, shall be liable to the same proceedings as by law may now be had against Sheriffs.

SEC. 7. *Be it further enacted*, That if any of the commissioners herein named, shall fail or refuse to act or comply with the provisions of this act, it shall be the duty of the County Court of the county in which said commissioner may reside, to appoint some person as commissioner to fill his place, who, when appointed, shall in every respect perform the duties enjoined by this act, and receive the same compensation and be subject to the same penalties as the commissioner herein named would have been subjected, had he acted in pursuance thereof.

SEC. 8. *Be it further enacted*, That it shall be the duty of the said commissioners, on or before the second Monday in September next, or as soon thereafter as may be convenient, to meet in the town of Elizabethtown, and from thence proceed to perform the duties enjoined by this act.

Approved, January 31, 1828.

CHAP. 61.—An act regulating the terms of the Jefferson Circuit Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Circuit Court of the county of Jefferson shall hereafter hold the following terms, to-wit: One term for the trial of pleas of the Commonwealth and civil actions, to commence on the third Monday in March, and continue twenty-four juridical days, if the business shall require it: Also one term for the trial of pleas of the Commonwealth and chancery causes, to commence the second Monday in May, and continue twenty-four juridical days, if the business shall require it: Also, one term for the trial of pleas of the Commonwealth and civil actions, to commence the second Monday in June, and continue twenty-four juridical days, if the business shall require it: Also one other term for the trial of pleas of the Commonwealth and civil actions

Terms of the
Jefferson Cir-
cuit to be held
hereafter an-
nually on the
3d Monday in
March.

2d Monday in
May.

2d Monday in
June.

4th Monday
in September.

to commence on the fourth Monday in September, and continue twenty-four juridical days, if the business shall require it: Also one term for the trial of pleas of the Commonwealth and chancery causes, to commence the fourth Monday in October, and continue twenty-four juridical days, if the business shall require it: Also one other term for the trial of pleas of the Commonwealth, to commence the second Monday in August, and continue twelve juridical days, if the business shall require it: Also one further term for the trial of pleas of the Commonwealth, to commence the third Monday in January, to continue twelve juridical days, if the business shall require it.

1828.

4th Monday
in October.

2d Monday in
August.

And 3d Mon-
day in Jan'y.

SEC. 2. *Be it further enacted*, That answers in chancery may be filed at the common law terms, and by the consent of the parties, suits at law may be tried at the chancery terms and the terms for the trial of pleas of the Commonwealth, and by the like consent chancery causes may be tried at the common law terms, and at the terms for the trial of pleas of the Commonwealth; and an entry of record shall be made of the consent of the parties or their attorneys to try any such causes.

Answers in
chancery may
be filed, &c.

Approved, January 31, 1828.

CHAP. 62.—An act for the benefit of John Gibson.

WHEREAS it is represented to the General Assembly of the Commonwealth of Kentucky, that in the life-time of Jereboam O. Beauchamp, he gave his bond to John Gibson, for a deed to twenty-three acres of land, (which should have been for thirty-two acres, as it is represented, but through mistake was given for only twenty-three:) and whereas the said Beauchamp procured the survey of a tract of thirty-two acres of land, and hath since departed this life leaving no legal issue: and whereas it is further represented that Thomas Beauchamp, the father and legal heir of said Jereboam O. Beauchamp, has assigned the plat and certificate of said survey to said John Gibson, but that the Register of the land office entertains doubts whether said assignment is sufficient to authorize him to issue a patent for said land in the name of said John Gibson: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office is hereby authorized and directed to issue a

1828.

patent for said thirty-two acres of land, in the name of said John Gibson, according to the laws now in force in this Commonwealth, upon the production of said plat and certificate, with the assignment of said Thomas Beauchamp, as heir at law aforesaid, to the said John Gibson.

Approved, February 1, 1828.

CHAP. 63.—An act authorizing the sale of certain streets in the town of Russellville.

Recital.

WHEREAS, it is represented to the present General Assembly, that the streets between lots number sixty-nine, seventy-five and sixty-eight; seventy-four, sixty-seven, seventy-three and sixty-six; seventy-two, sixty-six, seventy-two, sixty-five, seventy-five, in Hubbard Sanders' addition to the town of Russellville, are entirely useless and not kept open, and that Joseph Gray is owner of said lots, and is willing the streets between them be sold: Therefore,

Trustees of town authorized to sell & convey certain streets in the town.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Clerk of the trustees for the town of Russellville, do expose to sale on the premises, for cash in hand, the streets aforesaid, having first advertised the same in the "Weekly Messenger," printed in Russellville, twenty days previous to said sale, and that said Clerk convey the same to the purchaser or purchasers, and pay over the purchase money to the Treasurer of the trustees of said town, after deducting the cost of sale, &c.

Approved, February 1, 1828.

CHAP. 64.—An act for the benefit of Susan W. Owen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Susan W. Owen is hereby divorced from her husband Robert Owen, and she is restored to all the privileges of an unmarried woman.

Approved, February 1, 1828.

CHAP. 65.—An act declaring Beaver creek a navigable stream.

Creek declared navigable.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Beaver creek, in Barren county, be, and the same is hereby declared

a navigable stream, from the mouth of the south fork to Big Barren river.

1828.

SEC. 2. *Be it further enacted*, That any person who may hereafter erect a mill-dam across Beaver creek as aforesaid, on that part hereby declared navigable, shall be required to construct a slope thereto, so as to afford convenient and safe navigation.

Person to construct slopes to dams.

SEC. 3. *Be it further enacted*, That no obstructions shall be wantonly thrown into said stream, and the County Court of Barren county are hereby authorized to order the removal of any obstructions in said stream, mills and mill dams only excepted.

County Court of Barren authorized to remove obstructions placed therein.

Approved, February 1, 1828.

CHAP. 66.—An act to change the August terms of the Henry, Ohio and Hardin County Courts, and the time of holding the Lewis Circuit Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter the August term of the Henry County Court shall be held annually, on the second Monday in said month.

Aug. term of Henry court when to be held.

SEC. 2. *Be it further enacted*, That the August term of the Ohio and Hardin County Courts shall be held on the second Monday in said month.

Aug. terms of Ohio & Hardin courts when to be held.

SEC. 3. *Be it further enacted*, That hereafter the Circuit Court for Lewis county shall commence on the second Mondays in April, July and October, in each year, and shall continue at each term six judicial days, if the business thereof shall require it; and all process, recognizances or other proceeding which shall have been made returnable to said court at its next March term, or continued to that term, shall be returnable and continued to the April term, as herein provided for, and every thing shall stand and be considered at the term of April, as herein provided for, as though the same were the March term as heretofore.

Circuit Court of Lewis c'ty. when to be held.

Approved, February 1, 1828.

CHAP. 67.—An act for the benefit of Robert Patterson.

WHEREAS, it is represented to the General Assembly, that an act approved twelfth January, one thousand eight hundred and twenty-five, authorizing and directing the Register of the land office, to issue a

1828.

patent to said Robert Patterson for a fractional quarter section of land, and the above recited act made it the duty of said Patterson to produce to said Register satisfactory evidence of said quarter section which he had settled and improved one month before the time appointed by law for the sales of the public lands west of the Tennessee, the said Patterson having, on account of sickness and affliction, failed to produce the evidence within the time prescribed by said act: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Robert Patterson be, and he is hereby given the further time of three months to produce said evidence, whereupon the Register shall be authorized and is hereby directed to issue a patent for said fractional quarter section of land as directed by the said recited act.

Approved, February 1, 1828.

CHAP. 68.—An act to authorize the stockholders of the late Independent Banks to elect agents to close the concerns of said Banks, and for other purposes.

Stockholders
to elect an agent to close
the concerns.

'SEC: 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the stockholders of any of the late Independent Banks of this State, shall be authorized to meet on the first Monday of April next, at their old banking house or some other place, as the late Presidents or Cashiers may direct, to elect an agent to close the business of said Banks, and at said election each stockholder shall have one vote for each share he may own in said Banks.

Notice of the
time & place
of holding s'd
election.

SEC. 2. Be it further enacted, That it shall be the duty of the late Presidents of said Banks, or in case of the death or removal of any of the said Presidents the late Cashiers of said Banks to cause a notice to be given of at least three weeks in some newspaper, of the time and place of meeting, as provided in the first section of this act, and it shall be competent for such of the stockholders as attend to proceed to the election of an agent for the purposes aforesaid, and a majority of all the votes given at said election shall be sufficient to constitute an agent.

Suits may be
instituted by
or against s'd
agent, &c.

SEC. 3. Be it further enacted, That the agent thus elected shall have full power and authority to wind up the concerns of said Banks, and to that end shall be authorized to collect all debts due the same, by

the institution of suits therefor, either at law or in equity, in his own name; or may, at his option, submit all matters of controversy to arbitration, or compromise the same as may seem best for the interests of the stockholders; and any person or persons having right of action against the said corporations, may sue or assert the same against such agent in his fiduciary character, and should said agent die, resign or refuse to act, or in case of the failure, from any cause whatever, to elect an agent at the time herein prescribed, then the said Presidents or Cashiers, as the case may be, may proceed to advertise for another or other meetings of the stockholders, and proceed to hold another election of agent, and until such agent shall be chosen, the President and Directors and stockholders of the several Independent Banks, shall be liable to be sued as heretofore; and it shall be lawful for any person desiring to sue such President and Directors or stockholders or agents, as the case may be, to include as many several notes of said Banks in one suit as he may think proper; and where the whole amount of notes thus included, shall exceed the sum of fifty dollars, the several Circuit Courts shall entertain jurisdiction of such suit and grant relief either at law or in chancery, according to the circumstances of the case.

1828.

Suits may be brought as heretofore, if no agent is appointed.

SEC. 4. *Be it further enacted*, That the property, both real and personal, belonging to said institution, shall be vested in the agent elected, in pursuance of this act, for the purpose of making sale thereof for the benefit of the stockholders; and it shall be the duty of said agent, as soon as he can do so, consistently with the interest of the institution and that of its creditors, to make sale of said property, and shall apply the proceeds to the payment of the debts of the institution, and pay over the balance if any remain, to the stockholders in just proportion, after retaining his commission and just expenses; and the said agent shall have full power and authority to make title to, and convey all property by him sold as aforesaid.

Property vested in agent for the purpose of sale, paying debts, and distributing proceeds of sale among stockholders.

SEC. 5. *Be it further enacted*, That it shall be the duty of the said agent to collect all sums due, or which shall become due the said institution, and shall apply the same as directed in the fourth section of this act, in relation to the proceeds of the sales of property belonging to the institution; and to enable the said Commissioner to perform the duties herein

Duties of the agent when elected.

1828.

Elections of agents to be conducted by the late Presidents or Cashiers.

Certificate of elections to be returned to the County Court.

Compensation to the agent for his services.

Agents to give bond and security.

Conditions thereof.

Act of 1827, concerning the Bank of Limestone, repealed.

Two years allowed to wind up and close the concerns of said banks.

directed, he is hereby authorized to call upon, and to receive from the person having the custody thereof, all the books, accounts, notes, obligations and property of every description belonging to said institution.

SEC. 6. *Be it further enacted,* That the said Presidents or Cashiers, as the case may be, shall preside at the election of an agent to be chosen in pursuance of the provisions of this act, and shall keep a correct account of the votes given at said election, and make a return thereof to the County Court of the county where such Bank was located, with a certificate accompanying the same, certifying who was elected; all of which shall be recorded by said Clerk, and the said record, or a copy thereof, shall be considered as legal evidence of the appointment of said agent in pursuance of the provisions of this act.

SEC. 7. *Be it further enacted,* That the said agent shall receive such compensation for his services as shall be agreed upon by the stockholders at the time he is elected; *Provided* the same shall not exceed five per cent upon all sums collected and paid over, besides all reasonable contingent expenses.

SEC. 8. *Be it further enacted,* That the said agent, before he proceeds to fulfil the duties herein directed, shall enter into bond before their several County Courts, with two or more good and sufficient securities, to be approved by said Courts, payable to the Commonwealth of Kentucky, in the penal sum of twenty thousand dollars, conditioned that he shall faithfully discharge the duties of agent as aforesaid; and it shall and may be lawful for any person or persons to bring suit on said bond, in the name of the Commonwealth for the use of such person or persons, and at his or their proper costs.

SEC. 9. *Be it further enacted,* That an act to authorize the stockholders of the Bank of Limestone to elect an agent or Commissioner, approved January 10th, 1827, shall be and the same is hereby repealed.

SEC. 10. *Be it further enacted,* That the several agents hereby appointed, shall have two years to wind up the concerns of said Bank, but nothing herein contained shall prevent the prosecution of any suit against him, after six months from the time of his election or qualification; and the Commissioners appointed by the General Assembly of the Farmers and Mechanics' Bank of Logan, shall have the further time of two years to wind up said Bank.

Approved, February 4, 1828.

CHAP. 69.—An act further to regulate the Cumberland Hospital.

1828.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sum of one thousand dollars in Commonwealth's paper, be, and the same is hereby appropriated to complete the buildings of the Cumberland Hospital, and purchase Hospital stores, which sum may be drawn by the trustees of said Hospital out of the public treasury.

Approved, February 2, 1828.

CHAP. 70.—An act to add an additional Justice of the Peace to the county of Boone.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be appointed one Justice of the Peace, in and for the county of Boone, in addition to the number now authorized by law, who shall reside in the north east section of said county.

Approved, February 2, 1828.

CHAP. 71.—An act to regulate the duties and powers of the trustees of towns in this Commonwealth.

WHEREAS, the trustees of towns in this Commonwealth, have power by law to levy, collect and appropriate taxes, and are not accountable by any general law of this Commonwealth, for their proceedings in this behalf: For remedy whereof,

Recital.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the trustees of the several towns in this Commonwealth, once at least in each year, to give a full and fair statement in writing, to be signed by the Chairman and sworn to by the Clerk or some member of the board, of all sums of money received and due them, and of all sums appropriated by them, and all debts due by and from them to other persons; which statement in writing, shall by said trustees be put up for public inspection, in three of the most public and conspicuous places in their respective towns; and should the trustees of any of the towns in this Commonwealth, fail or refuse to comply with the aforesaid duty, then, and in that case, it shall be the duty of the several County Courts of this Commonwealth, and they are hereby authorized and directed so to

Trustees of towns to publish annually an account of their receipts and expenditures, and of the debts due to and from them.

1828.

City Courts authorized to enforce statements from trustees of towns.

Trustees of towns to reside in or own property in the town of which they are trustees.

Town taxes to be levied on the ad valorem principle.

Property exempt from taxation.

Proviso.

Trustees for Cynthiana to be elected annually.

do, to cause the trustees of town or towns in their respective counties, in which such failure or refusal shall occur, to be summoned before them, and cause said statement as aforesaid to be made, as said Courts can now by law enforce settlements with guardians, and under the same rules and regulations; and said statement, when so enforced by said Courts, shall be recorded by their Clerk in a book to be kept for that purpose.

SEC. 2. *Be it further enacted*, That no person shall hereafter hold the office of trustee of a town in this Commonwealth, unless he shall be the owner, in good faith, of town property, or have resided in said town one year next preceding his election.

SEC. 3. *Be it further enacted*, That in all cases where the trustees of any town, shall levy a tax upon the real property and slaves in such town, it shall be their duty to levy the same upon the ad valorem principle, and no such property shall be exempt from taxes, except public buildings and property dedicated to literature, charity and religion: *Provided however*, That nothing herein shall be so construed as to prevent the levying and collecting the poll tax.

SEC. 4. *Be it further enacted*, That the trustees of the town of Cynthiana, shall hereafter be elected on the first Monday in January, in each year, instead of once in two years, as now directed by law.

Approved, February 4, 1828.

CHAP. 72.—An act concerning Floyd's fork.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the act approved October twenty-third, one thousand eight hundred and twenty-one, as declares Floyd's fork of Salt river a navigable stream, to the plantation of Maurice L. Miller, in Jefferson county be, and the same is hereby repealed, and from and after the passage of this act, the said fork shall only be navigable to Brashear's ford, and the provisions of the act aforesaid shall only apply to said fork from its junction with Salt river to said ford.

Part of the act of 1821 rep'd.

Highest navigable point.

Approved, February 5, 1828.

CHAP. 73.—An act to reduce the limits of the town of Mountsterling.

1828.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the bounds of the town of Mountsterling, shall be, and the same are hereby curtailed to the following boundary, to-wit: Beginning at a cherry tree and honey-locust, corner to Enoch Smith's pre-emption, extending north five degrees east three hundred and twenty poles to a stake, thence south eighty-five east, to Hinkston's creek, thence up the said creek with its meanders, to the mouth of the branch running between William Chiles' and Thomas Botts', thence up said branch to the present western boundary line of said town, thence north eighty five west to the beginning. This act shall not take effect until the first day of May next, previous to which time it shall be the duty of the trustees of said town to cause the streets and alleys as herein stricken from the bounds as aforesaid, to be put in good repair.

Boundary of
the town de-
signated.

Commencing
clause.

Approved, February 5, 1828.

CHAP. 74.—An act for the benefit of D. Trabue and others.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That no further time shall be allowed Daniel Trabue, Jacob Antle, Adam Kerns and Charles Bennett, or their assigns, to pay into the Treasury the balance of the State price due on a certain privilege of five thousand acres of land, around their Salt well, except so much of said privilege as have been surveyed and registered, previous to the passage of this act, and on such as have been registered, they shall not be indulged more than two years, from and after the passage of this act.

Further time
given Trabue
and others to
locate lands
for salt works.

SEC. 2. *Be it further enacted,* That John Cottral, Thomas Wyatt and Thomas Arthur or their assigns, have the further time of two years, from the passage of this act, to pay into the Treasury the State price on a Salt water claim, on Poplar creek in Knox county.

To Thomas
Wyatt and
others.

SEC. 3. *Be it further enacted,* That the further time of three years be given, from the first day of January one thousand eight hundred and twenty-eight, to Jesse Walker, to survey and return to the Register's

To Jesse
Walker.

1828.

office, a plat and certificate of survey of five hundred acres of land in Whitley county, on Gellicoe river, as near as convenient to the Salt works of said Jesse Walker, which was granted to him and others, by an act of the Legislature of this Commonwealth, approved the fifth day of December one thousand eight hundred and twenty-one, and an act of the same approved seventh day of January one thousand eight hundred and twenty-five, upon the said Jesse Walker's paying into the proper office, the State price of the same.

Approved, February 5, 1828.

CHAP. 75.—An act to amend an act imposing a duty on sales at auction, in the county of Jefferson for the benefit of the Louisville Hospital, approved December 17, 1821.

Construction which is to be given to the 2d section of recited act.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the second section of the act to which this is an amendment, shall be so construed as to include the goods of the Auctioneer sold at auction, as well as the goods of other persons, and shall not require in the statement of each day's sale, the name of the person owning the goods; and all goods sold by any person having obtained license to exercise the business or trade of an Auctioneer, under the first section of said act, shall be held to be sales at auction.

Proceeds of sales in Lexington to be paid to trustees of Trans. University.

SEC. 2. *Be it further enacted*, That the provisions aforesaid shall apply to all sales at auction, made by Auctioneers in the town of Lexington; and that all monies now due, or which may be hereafter recovered from Auctioneers in said town, shall be paid to the Treasurer of the Transylvania University, to be applied to such purposes as the Board of Trustees may from time to time direct.

Trustees authorized to sue for and recover the same.

SEC. 3. *Be it further enacted*, That it shall and may be lawful for the Chairman of the Board of Trustees of Transylvania University aforesaid, to commence suit by motion or otherwise, in their names as Trustees against persons for failing to obtain licenses, or for failing to account for and pay over any monies agreeably to the provisions of an act imposing a duty on sales at auction, passed the 7th day of December, 1822, which suit or motion the Circuit Court shall proceed to try; and neither party shall delay such suit or motion for the want of form; but the said

Court shall hear the suit or motion on its merits, and give judgment according to the law and justice of the case, and to that end may suffer amendments or grant continuances to either party.

1828.

Approved February 5, 1828.

CHAP. 76.—An act allowing further time for completing the Louisville and Portland Canal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the further time of sixty days after the time now limited by law, be and the same is hereby allowed the President, Directors and Company of the Louisville and Portland Canal to finish the same.

Approved February 6, 1828.

CHAP. 77.—An act to authorize the Receiver of Public monies west of the Tennessee river to appoint a Deputy.

WHEREAS, the Receiver of Public monies west of the Tennessee river, is not by any existing law entitled to a deputy, therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the Receiver aforesaid, to have a Deputy, who, before he enters on the duties of his office, shall take an oath to discharge his duty as Deputy, faithfully.

Receiver to appoint a deputy.

Deputy to take an oath.

SEC. 2. *Be it further enacted,* That the Deputy which may be appointed by this act, shall give bond and security to the Receiver in such sum as he may require: *Provided however,* in all cases the said Receiver, and his securities shall be bound for the conduct of the Deputy, and the said Receiver shall pay said Deputy out of the salary now allowed him by law.

To give bond and security to the Receiver.

Proviso.

Approved February 6, 1828.

CHAP. 71.—An act to authorize the citizens of Middletown in Jefferson county to elect trustees, and for other purposes.

WHEREAS, It is represented to the General Assembly, that the citizens of Middletown did not hold an

Recital.

1828.

election for trustees on the day of the present year appointed for that purpose, because of a failure to advertise, and that there are none in office: For remedy whereof,

Election for
five trustees
may be held
in Feb. 1828.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful, for the persons having the qualifications prescribed by law to vote for trustees for Middletown in Jefferson county, may elect and choose on the third Monday in February next; five trustees, who shall have all the powers and authority vested in the trustees of said town by a former law, and who, when elected, shall continue in office until the time of holding the annual election of trustees, or until their successors shall be duly elected and qualified, with all the powers now vested by law in the trustees of Middletown.

Trustees may
levy and col-
lect taxes an-
nually to the
amount of
100 dollars.

SEC. 2. *Be it further enacted*, That hereafter the trustees of the town of Jefferson, in the county of Jefferson, shall be, and are hereby authorized and empowered to assess, levy and collect, on the property, real and personal, within said town, a sum not exceeding one hundred dollars annually, in the same manner as authorized by a law, approved February first, one thousand eight hundred and nine, relating to said town.

Real estate
sold for taxes
may be re-
deemed.

SEC. 3. *Be it further enacted*, That the real estate that may be sold for said tax, shall be subject to redemption at any time within five years, upon the payment of ten per centum per annum to the purchaser.

Approved, February 6, 1828.

CHAP. 79.—An act to continue in force the law providing for the appointment of Commonwealth's Attornies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act entitled, "an act providing for the appointment of Commonwealth's Attornies," approved February twelfth, one thousand eight hundred and twenty, be, and the same is hereby continued in force until the first day of December next.

Approved, February 7, 1828.

CHAP. 80.—An act to incorporate the Lexington and Frankfort Turnpike or Rail Road Company.

1828.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a Company shall be, and the same is hereby formed, for the purpose of making a road from Lexington to Frankfort, under the name and style of "The Lexington and Frankfort Turnpike Road Company."

Company formed.

SEC. 2. *Be it further enacted,* That the capital stock of said Company shall be one hundred thousand dollars, divided into one thousand shares of one hundred dollars each.

Name and style of Company.

Amount of capital.

SEC. 3. *Be it further enacted,* That books for subscriptions in the stock of said Company, shall be opened on the first Monday in April next at Lexington and Frankfort, under the direction of the commissioners hereinafter named, that is, at Lexington, under the direction of John W. Hunt, William Richardson, Elisha I. Winter, Benjamin Gratz and John Brand; at Frankfort, under the direction of Charles P. Bacon, John J. Marshall, Peter Dudley, John H. Hanna, Samuel Wallace, John Harvie and Richard Taylor. The commissioners named at each of the before mentioned places, shall procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the President, Managers and Company, of the Lexington and Frankfort Road, the sum of one hundred dollars for every share of stock in the said Company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the President and Managers of said Company, and agreeable to the act of the General Assembly of the Commonwealth of Kentucky, to incorporate a Company for making an artificial road by the best and nearest route from Lexington to Frankfort, witness our hands this day of in the year of our Lord one thousand eight hundred and . The said commissioners shall give notice in one or more of the public papers printed at each of the places where books for subscriptions shall be opened, at which time and place they will be opened at, to receive subscriptions for stock in said Company, at which respective times and places, some one or more of said commissioners abovenamed at each place, shall attend and permit all persons of lawful age, bodies corporate and politic, who shall offer

Books for subscription to be opened.

When and where to be opened.

Commissioners appointed.

Comm'rs to procure books.

Form of subscription.

Comm'rs to give notice where books are to be opened, &c.

To attend the taking of subscriptions.

1828.

Comm'rs may adjourn from place to place and from time to time, until subscriptions are completed

to subscribe in said books, in their own name or names of any other person, who shall duly authorize the same, for any number of shares in the said stock. The said books shall be kept open respectively for the purpose aforesaid, by adjournment from place to place and from time to time, until the whole number of shares shall be subscribed; of which adjournments, the commissioners shall give such notice as the occasion may require; *Provided*, That every person offering to subscribe in the said books in his own or any other name, shall previously give to the attending commissioners their note, payable sixty days after the Company shall be organized and the President and Managers shall be elected, for the amount of ten dollars for every share to be subscribed; *And provided also*, That no subscriber for stock shall be bound to pay off his stock, nor shall the President and Managers have power to call in more of said stock than ten dollars on each share, in any sixty days.

Subscribers to give note.

Proviso.

Comm'rs to report to the comm'r's at Frankfort.

Duty of commissioners at Frankfort.

Sec. 4. Be it further enacted, That the commissioners before mentioned, shall, after their respective books have been kept open for three weeks, send as soon as possible thereafter, the whole amount or number of shares subscribed on their respective books, to the commissioners at Frankfort, whose duty it shall be, if it appear that fifteen hundred shares have been subscribed, to give notice to the commissioners at each place where books have been opened, of the actual number of shares taken, and the number at each place, and likewise, as soon as may be thereafter, to give at least thirty days notice from the first publication in one or more of the public papers printed in Lexington and Frankfort, that the number of shares required by the act of incorporation to organize the Company have been subscribed, and that an election will be held at the court house in the town of Frankfort, to choose by a majority of votes of the said subscribers by ballot, to be delivered in person or by proxy, duly authorized, one President, seventeen Managers, one Treasurer and such other officers as they may think necessary to conduct the business of the said company, for one year or until other such officers shall be chosen, and shall make such by-laws, rules, orders and regulations, not inconsistent with the constitution of the United States and of this Commonwealth, as shall be necessary for the well ordering the affairs of said Company; and whenever

Election for President and Managers to be held in Frankfort.

How long to continue in office.

the said Company shall be so organized, they shall . . . 1828.

be a body politic and corporate in deed and in law, by the name, style and title, of the President, Managers and Company of the Lexington and Frankfort Turnpike Road, and by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying, in fee simple, all such lands, tenements, hereditaments and estate, real or personal, as shall be necessary to them in the prosecution of their works; and of suing and being sued, implead and be impleaded, answer and be answered, defend and be defended in courts of record or any other place whatsoever, and also to make, have and use a common seal, and the same to break, alter and renew at pleasure, and do all and every other matter and thing which a corporation or body politic may lawfully do.

Company declared a body politic.

Capital stock may be enlarged.

Stock transferable.

Authorized to have a common seal.

SEC. 5. *Be it further enacted*; That the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold in proportion as follows: For every share under five, one vote; for every share over five and not exceeding ten, one vote; for every four shares over ten and not exceeding thirty, one vote; for every six shares over thirty and not exceeding sixty, one vote; for every eight shares over sixty and not exceeding one hundred, one vote; and for every ten shares over one hundred, one vote. And after the first election, no share or shares shall confer a right of voting which shall not have been holden three calendar months previous to the day of election; all stockholders who are residents of the United States and no others, may vote by proxy; *Provided*, the proxy be a citizen of this State; none but a stockholder shall be eligible as a President, Manager or Treasurer, and every President, Manager or Treasurer, as the case may be, shall cease to be such upon his ceasing to be a stockholder.

Number of votes regulated.

Shares to be held three months previous to the election.

None but a stockholder to be elected President, Manager or Treasurer.

SEC. 6. *Be it further enacted*, That the stockholders

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Stockholders
to meet to
choose officers
&c.

in said Company, shall meet on such day in every year at such place as shall be fixed by the by-laws, for the purpose of choosing officers as aforesaid for the ensuing year, in manner aforesaid, and at such times as they shall be summoned by the Managers in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings, they shall have power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations, as aforesaid, and to do and perform any other corporate act.

Power to alter
by-laws, &c.

Duties of President and
Managers first
chosen.

Certificate of
stock to be
given.

Same trans-
ferrable.

Proviso.

SEC. 7. *Be it further enacted*, That the President and Managers first chosen as aforesaid, shall procure certificates to be written or printed, for all the shares of the stock of the said Company, and shall deliver one such certificate signed by the President and counter-signed by the Treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the President, Secretary or Treasurer, subject however, to all payments due and to become due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the Company, to be kept for that purpose, shall be a member of said corporation, and every certificate by him held, shall be entitled to one share of the capital stock and of all the estates and emoluments of the Company, and to vote as aforesaid at the meeting thereof.

President and
Managers,
when to meet.

Number re-
quired to form
a quorum.

Minutes of
board to be
kept.

Power to ap-
point survey-
ors, &c.

To ascertain
time, manner
and propor-
tions of stock
to be paid in.

SEC. 8. *Be it further enacted*, That the said President and Managers shall meet at such times and places and be convened in such manner as shall be agreed on for transacting their business, at which meeting six members shall form a quorum, who in the absence of the President, may choose a Chairman, and shall keep minutes of all their transactions fairly entered in a book; and a quorum being met, they shall have power and authority to agree with and appoint all such surveyors, superintendants, artists and officers, as they shall adjudge necessary to carry on the intended works, and to fix their salaries or wages; to ascertain the time, manner and proportions, when the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the Treasurer for all

monies necessary to pay the salaries or wages of persons by them employed, and for the labor done and materials provided in the prosecution of the work; which orders shall be entered or registered in their book of minutes, and shall be signed by the President, or in his absence by the Chairman of the board; and generally to do all such other acts, matters and things, as by the by-laws, rules, orders and regulations of the Company, shall be committed to them.

1828.

To draw orders on treasurer.

SEC. 9. *Be it further enacted*, That if any stockholder, whether original subscriber or assignee, after thirty days notice in the public papers before mentioned, of the time and place appointed for the payment of any proportion or instalment of said capital stock, in order to carry on the work, shall neglect to pay such proportion for the space of thirty days after the time appointed for the payment thereof, every stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month for every delay of such payment, and if the same and the additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid, in part and on account of such share, the same shall be forfeited by and to the said Company at any public meeting of the Managers thereof, and may be sold by them to any other person or persons willing to purchase, for such price as can be had therefor; or in default of payment by any stockholder of any such instalment as aforesaid, the said President and Managers may, at their election, cause suits to be brought in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid, or before a Justice of the Peace, as the case may be; *Provided*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election or at any general or special meeting of the said Company, unless the whole sum due and payable as aforesaid, on the share or shares by him held, at the time of such election or general or special meetings of said Company, shall have been fully paid and discharged as aforesaid.

Forfeiture on failure to pay in capital stock.

Stock may be sold.

Suit may be brought for recovery of amount due with penalty.

Proviso as to delinquent stockholders voting.

SEC. 10. *Be it further enacted*, That it shall be the duty of the commissioners, and they are hereby authorized, after the number of shares shall have been subscribed, and notice given for the stockholders to meet for the purpose of electing a President and

Comm'rs to employ surveyors, &c.

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May enter up-
on lands en-
closures, &c.

To cause a
map or chart
of road to be
made.

Proviso as to
route of the
road.

Map or chart
to be laid be-
fore the gen-
eral meetings.

Expenses of
surveying &c.
to be certified
by comm'rs.

Proviso as to
failure of com-
missioners.

President,
Managers &c.
may enter up-
on lands, en-
closures, &c.

Managers, as before directed, for them to employ such a number of surveyors, engineers, artists and chain bearers, as they may think necessary; and to enter into and upon all and every, the lands and enclosures, public roads and highways, in, through and over which the said intended road may be thought proper to pass; and to survey and examine the ground most proper for the purpose, and the quarries or beds of stone and gravel, and other materials necessary for the completion of said road, and to cause a map or chart of the same to be made from point to point as before laid down; combining shortness of distance, with the most practicable ground; *Provided*, That on the commissioners differing in opinion as to the most proper route, the difference shall be determined by the votes of the commissioners, a majority of the whole concurring to fix on the route, and after so agreed on, the commissioners shall lay the plan and the chart of said road, before the general meeting of the stockholders at their first meeting, to elect a President and Managers, and if approved of by the general meeting of the stockholders, it shall be the route and scite of the said road. All the expenses necessarily incurred in the examination, marking and surveying the route for the said road, shall be certified to the President and Managers of said Company, by the commissioners as aforesaid, who shall pay and defray the expenses so incurred, out of the funds of the Company; *Provided*, That in case the said commissioners shall fail, refuse or neglect, to run out and mark said route and report to the first meeting of the stockholders, or that the stockholders shall disagree to the route laid down by the commissioners, then and in that case, it shall be the duty of the President and Managers of said Company to perform the duties as is laid down in the eleventh section of this act.

SEC. 11. *Be it further enacted*, That it shall and may be lawful to and for the said President and Managers, their superintendants, surveyors, engineers, artists and chain bearers, to enter into and upon, all and every, the lands and enclosures, public roads and highways, and through and over which the said intended turnpike road, may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road, and

to survey, lay down, ascertain, mark and fix thereon, such route or tract for the said road, as in the best of their judgment and skill, will combine shortness of distance, with the most practicable ground from Lexington to Frankfort.

1828.

SEC. 12. *Be it further enacted*, That it shall and may be lawful to and for the said President and Managers, by and with their superintendants, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, sleds and other carriages, and beasts of draught and burthen, to enter upon the lands, in, over, contiguous and near, to which the route and tract of the said intended road shall pass, having given notice of the intention to the owners or occupiers thereof, or their agents, and making amends for any damages that may be done thereon; the amount thereof, if they cannot otherwise agree, to be ascertained by an appraisement made upon oath or affirmation, by thirteen disinterested freeholders mutually chosen, any nine of them agreeing; or if the owners, occupiers or their agents, upon due notice, shall neglect or refuse to join in the choice, then the said freeholders shall be appointed by any disinterested Justice of the Peace for the county where such valuation is to be made, and upon tender of the appraised value, it shall be lawful for the said President and Managers to open and mark the said road, and to dig, take and carry away, any stone, gravel, sand, earth or other materials there being most conveniently situated for making or repairing the said road; *Provided always*, That the freeholders chosen or appointed as aforesaid, in making said valuation, shall take into consideration the advantages and disadvantages arising to the proprietors of such land, on account of said road; and where no damage shall be assessed, the owner of the land shall pay the costs and expenses incurred by such appraisalment.

May enter upon lands, over, contiguous and near said road with wagons, &c.

Notice to be given to overseers, &c.

Remuneration to be made for any damage.

Freeholders to be appointed to ascertain the amt of damage sustained.

President and Managers may dig, take and carry away, stone, gravel, &c.

Proviso as to the amount of damage to be sustained by proprietors, &c.

SEC. 13. *Be it further enacted*, That the said President, Managers and Company, shall have power to erect permanent bridges over the creeks and waters crossed by the said route or tract, whereon the same shall be found necessary, and shall cause a road fifty feet in width, to be laid out and made from the town of Lexington to the town of Frankfort, of which fifty feet, the said President, Managers and Company, shall be bound to make an artificial road at least

Power to erect bridges, &c.

Width of road &c.

1828.

Materials
used.

Road to be
kept in good
repair.

Proviso as to
taking of tolls

Duties of Pre-
sident and
Managers
when parts of
the road are
completed.

Notice to be
given to the
Governor.

Comm'rs. to
be appointed
to review the
road.

Gates may be
erected.

Proviso.

twenty feet in width, of firm, compact and substantial materials, composed of gravel, pounded stone or other small hard substances, in such a manner as to secure a good foundation and an even surface, so far as the nature of the country and the materials will admit, in the whole extent of the said road, whenever it shall be necessary and the natural surface shall require it, so as to fulfil the duties of the said Company towards the public, and to conform to the true intent and meaning of the present act, and shall, forever hereafter, maintain and keep the same in good repair; *Provided*, That no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to and from any place of public worship or funeral, or from militia men on days of training, or of attending courts martial, or from electors going to and returning from the same.

SEC. 14. *Be it further enacted*, That so soon as the said President, Managers and Company shall have perfected any distance of said road, not less than ten miles, and so, from time to time, any distance not less than five miles progressively from the same, towards either of the places aforesaid, they shall give notice thereof to the Governor of this Commonwealth, who shall thereupon forthwith nominate and appoint three judicious and disinterested persons, to view and examine the same, and report to him whether the road is so far executed in a complete and workmanlike manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the Governor shall by license under his hand, and the seal of the Commonwealth, permit and suffer the said President, Managers and Company, to erect and fix such, and so many gates or turnpikes upon, and across the said road, as will be necessary and sufficient to collect the tolls, and duties, hereinafter granted to the said Company, from all persons travelling on the same with horses, cattle or carriages; *Provided always*, that no gate shall be erected, nor toll demanded from any person or persons travelling said road, until after the license aforesaid shall have been granted, under a penalty of ten dollars, to be recovered as debts of the same amount are recoverable for every such offence; which said penalty when recovered, shall be paid over to the Clerk of the County, to go towards lessening the

County levy, of the County where the offence happened; nor shall any gate be erected within a less distance than one mile of the towns of Lexington or Frankfort, or any other town.

1828.

SEC. 15. *Be it further enacted*, That when the said Company shall have perfected the road, or any part thereof from time to time as aforesaid, and when the same shall have been examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers, as they shall think proper to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving, any horse or mule, or driving any cattle, hogs, sheep, sulky, chair, chaise, phaeton, cart, wagon, sled or other carriage of burthen or pleasure, from passing through the said gates or turnpikes, until they shall have paid respectively the same; that is to say, for every space of five miles in length of said road, the following sums of money, and so in proportion for any greater or less distance at which gates shall be fixed to collect toll, or for any greater or less number of hogs, sheep or cattle, viz: For every twenty head of sheep or hogs, six and one fourth cents; for every ten head of cattle, six and one fourth cents; for every horse or mule, laden or unladen, with rider or leader, four cents; for every sulky, chair, chaise, with one horse and two wheels, nine cents; and with two horses, twelve and a half cents; for every chair, coach, phaeton, chaise, stage, wagon, coachee or light wagon, with two horses and four wheels, sixteen cents; for either of the carriages last mentioned, with four horses, twenty-five cents; for every other carriage of pleasure under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same; for every sleigh or sled, three cents for each horse drawing the same; for every cart or wagon or other carriage of burthen, the wheels of which do not in breadth exceed three inches, five cents for every horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth three inches and not exceed six inches, four cents for each horse drawing the same; and for any cart or wagon, the wheels of which shall exceed in breadth six inches, two cents for each horse drawing the same; and when any such carriage as

Toll gatherer
to be appointed.

Powers to
stop persons
&c. until tolls
are paid.

Rate of tolls.

1828.

aforesaid, shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every mule as equal to one horse, in charging the aforesaid tolls.

Forfeiture & penalty in attempting to evade the payment of tolls.

SEC. 16. *Be it further enacted*, That if any person or persons, owning, riding in or driving any carriage of burthen or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule, or driving any hogs, sheep or cattle, as aforesaid, shall, with an intent to defraud the said Company or to evade the payment of any of the tolls or duties aforesaid, pass through any private gate or bars, or along or over any private passage way, or along or over any ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off or cause to be taken off, any horse or other beast or cattle of draught or burthen from any carriage of burthen or pleasure, or shall practice any other fraudulent means or device with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid, shall, for every such offence, respectively forfeit and pay to the President, Managers and Company of the Lexington and Frankfort Turnpike Road, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any Justice of the Peace for the county where the offence happened, in like manner and subject to the same rules and regulations as debts of equal amount are or may be by law recoverable.

May be sued for and recovered with costs.

Proceeding to be had upon failure of Company to keep the road in repair.

SEC. 17. *Be it further enacted*, That if the said Company shall neglect to keep the said road in good repair, for the space of ten days, and information thereof shall be given to any two justices of the peace for the proper county, such justices shall issue a precept, to be directed to any Constable, commanding him to summon five judicious and disinterested freeholders to be named by said justices, to meet at a certain time in the said precinct, to be mentioned, at the place in the said road which is complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justices shall, at such time and place, by due oaths or affirmations of the said freeholders, enquire whether the said road or any part thereof is in such good repair as aforesaid, and shall cause an inquisition to

be made under their hands and seals, and under the hands and seals of said freeholders; and if the said road shall be found by the said inquisition to be out of repair, contrary to the true intent and meaning of this act, they shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpike or gates between which said defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpike or gates for the intermediate distance between them, shall cease to be demanded, paid or collected, until it shall have been certified by the said freeholders, or a majority of them, that the said defective part or parts of the said road have been put into good and perfect order and repair as aforesaid; and if any of the keepers of the gates as aforesaid shall take or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller during the time the road shall continue out of repair, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars for each offence, to be recovered before any justice of the peace as debts of equal amount are or may be by law recoverable; but if the said road shall not be put into good repair before the next ensuing Circuit Court for the proper county, the said justices shall certify and send a copy of the said inquisition to the Clerk of the said court; and the court shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the Company with the care and superintendence of such part of the said road as shall be found defective as aforesaid, and shall in a summary way enquire into the fact, and enter up a judgment according to the nature of the case, the aggravation and neglect as aforesaid, as the said court in their discretion shall judge proper: *provided*, the fine in no instance shall be less than twenty nor exceed one hundred dollars; and the fine so imposed shall be recovered in the same manner as other fines against said Company, and to be paid over and go towards lessening the county levy for the proper county.

1828.

Penalty upon
keepers de-
manding toll
when the road
is out of re-
pair.

SEC. 18. *Be it further enacted*, That the President and Managers of the said Company shall keep fair and just accounts of all monies which shall be received by them from the subscribers for stock of the said Company, on account of their several subscriptions,

President and
Managers to
keep a fair
and just ac-
count of mo-
nies received
as stock, &c.

1828.

Accounts to be submitted annually to a general meeting of the stockholders.

May increase the number of shares.

Accounts to be kept of monies received from collector of tolls.

Gates not to exceed one for every five miles.

and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them expended in the prosecution of their work; and shall, once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged; and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the said Company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road according to the true intent and meaning of this act, it shall be lawful for the said President, Managers and Company, at a stated or special meeting to be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to open books for subscription for such additional shares, or sell for the benefit of the Company, as they may think proper; and to demand and receive the monies subscribed or sold for such shares, in like manner and under the like penalties as are herein provided for the original subscriptions, or as shall be provided for by their by-laws.

SEC. 19. *Be it further enacted*, That the said President, Managers and Company shall also keep a just and true account of all and every the monies to be received by their several and respective collectors of tolls at the several gates or turnpikes on the said road, which shall not exceed one for every five miles after the road is completed from the beginning to the end thereof, or such part thereof as shall from time to time be completed as aforesaid; and after the said road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable fund for repairs and for progressive improvement and accomplishing of the work, being first deducted and reserved, among all the subscribers to the stock of the said Company; and shall, on the first Monday in April and October in every year, publish the half yearly dividends to be

made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

1828.

SEC. 20. *Be it further enacted*, That the said President and Managers shall at least once in every year after the Company shall be organized, lay before the General Assembly of the Commonwealth of Kentucky, during their session, an abstract of their accounts, shewing the amount of their capital expended in prosecution of their works, and of the income and profits arising from the said toll, for, and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, and such other general information respecting the Company and their progress, as they may think necessary to the end, that the clear annual income and profits thereof may be ascertained and known.

President and Managers to make report annually to the General Assembly.

SEC. 21. *Be it further enacted*, That the said Company shall cause posts to be erected at the intersection of every road falling into and leading out of the said turnpike road, with boards, and an index hand pointing to the direction of such road, on both sides whereof shall be inscribed in legible characters, the name of the town or place, to which such road leads, and the distance thereof, in measured or computed miles; and shall also cause mile stones to be placed on the side of the said turnpike road, to designate the distances to and from the principal places thereon; and also cause to be affixed on the gates to be erected, for the information of travellers and others using the said road, a printed list of the rates of toll, which from time to time may be lawfully demanded, and if at the end of three years after the said first section of the said road shall have been completed, it shall appear that the clear income and profits will not yield a dividend of six per centum per annum on the capital stock so expended, from the time of investing the same, then it shall and may be lawful for the President and Managers to increase the toll herein before allowed, so much on each and every allowance thereof, as will raise the dividend up to six per centum per annum, and if at any time it shall appear by the said abstract that the said income and profits will yield a dividend exceeding twelve per cent per annum, then the said tolls shall be reduced, so as to re-

Posts to be erected with index hands at the intersection of roads.

Mile stones to be placed on the side of the road.

Tolls may be so increased as to yield a dividend of six per cent per annum.

Dividend not to exceed 12 per cent per annum.

1828.

Penalty for
pulling up any
mile post,
&c.

duce the dividend down to twelve per cent per annum.

SEC. 22. *Be it further enacted*, That if any person or persons, shall wilfully break, deface or pull down up or prostrate any mile stone or mile post, which shall be placed in pursuance of this act on the side of said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction post which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index hand affixed thereto, in conformity to the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface, or obliterate the letters, figures or other characters marked at any turnpike or gate which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates of tolls which shall be affixed in pursuance of the directions of this act at such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively forfeit and pay to the said President, Managers and Company, the sum of twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in manner aforesaid.

May be sued
for and recovered
with
costs.

Duties of wagoners
using
the road.

SEC. 23. *Be it further enacted*, That all wagoners, carters, and drivers of carriages of all kinds, whether of burden or pleasure, using said road, shall, except when overtaking and passing by a carriage of slower draught, keep their carriages and horses on the right hand side of the said road, in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any carter, wagoner, or driver, shall offend against this provision he shall forfeit and pay any sum not exceeding five dollars, to any person who shall, by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered, with costs of suit, in manner aforesaid.

Penalty for
demanding a
greater rate
of toll than
that allowed
by law.

SEC. 24. *Be it further enacted*, That if any toll-gatherer on the said road shall demand from any person or persons using the said road, any greater rate of toll than by this act is authorized and allowed, such toll gatherer shall forfeit and pay the sum of twenty dollars for every such offence, one half to-

wards lessening the county levy of the county where the offence was committed, the other half to the use of the person suing for the same, to be recovered before any justice of the peace in manner aforesaid.

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SEC. 25. *Be it further enacted*, That no suit or action shall be brought or prosecuted for any penalties incurred by this act, whether by or against the Company, unless such suit or action shall be commenced within six months next after the fact committed, unless the party of their own act, prevent it being sooner brought; and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Suit to be brought within 6 months.

SEC. 26. *Be it further enacted*, That if the said Company shall not within one year proceed to carry on the work, or shall not, within five years thereafter, complete the same according to the true intent and meaning of this act, then in either of these cases it shall and may be lawful for the legislature of this State to resume all and singular the rights, liberties, privileges and franchises of this act, granted to the said Company.

Company to commence the road within one year, &c.

SEC. 27. *Be it further enacted*, That the ground over which the said contemplated road passes, shall be so dug down and levelled, that when completed, the elevation thereof shall not exceed five degrees.

Elevation of road.

SEC. 28. *Be it further enacted*, That the President and Managers of said Company (if it shall be so decided by a full majority of all the stockholders therein voting as above provided,) shall cause to be constructed a double or single rail road or way along the same route, or in lieu of the turnpike road hereby provided to be made, with the same powers, rights, immunities and privileges, and subject to the same laws, rules, regulations and responsibilities in reference to all the powers vested in them, as are above provided for making said turnpike road, and enjoying the benefits resulting therefrom.

Company may construct a double or single rail road.

SEC. 29. *Be it further enacted*, That the rate of transportation on said rail way, if so constructed, shall be at the rate of eight cents or less for every twenty miles per hundred pounds gross, in the discretion of said President and Managers, and to be fixed by their by-laws from time to time: and the passage of persons on the said rail way shall, in like

Rates of transportation.

1828.

Penalty for
injuring rail
way or any of
the buildings,
&c.

manner, be fixed by their by-laws, from time to time, and the passage of persons on the said rail way shall, in like manner, be fixed as may be deemed proper.

SEC. 30. *Be it further enacted*, That if any person or persons shall knowingly do any act or thing whereby the said rail way or any of its buildings or fixtures shall be injured, he, she or they so causing the injury, shall forfeit and pay ten times the amount of damage sustained, to be sued for in any court of competent jurisdiction, one half to the prosecutor and the other to the President and Managers of said Company: and if any person or persons shall wilfully set fire to and burn any of the engines or engine houses, or other apparatus belonging to said Company, or any part of the same, each and every person so offending shall, with their counsellors, aiders and abettors, be guilty of arson, and on conviction, shall be subject to confinement in the jail and penitentiary house of this Commonwealth not less than one nor more than five years, to be ascertained by the jury in their verdict.

Treasurer &
Gate-keeper
to give bond.

SEC. 31. *Be it further enacted*, That it shall and may be lawful for the said board of trustees to demand and take from their Treasurer, Gate-keepers, or other persons employed by them, bond, with sufficient security, for the faithful discharge of the duties to them respectively assigned; and all bonds so taken or given by the Company, shall be in the name of the President, Managers and Company of the Lexington and Frankfort Turnpike Road.

Approved, February 7, 1828.

CHAP. 81.—An act to restore Eliza B. Shannon and Malinda Morris to the privileges of femes sole.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that by an act of the General Assembly of the State of Illinois, approved January 15th, 1825, Thomas Shannon was divorced from his wife, Eliza B. Shannon, and that she is now living in this State: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said Eliza B. Shannon be permitted to resume her maiden name, Eliza B. Dupuy, and that she be restored to all the privileges of a feme sole.

AND WHEREAS, John Morris, of Bourbon county, has obtained a divorce from his wife Malinda Morris, and has since intermarried with another woman: Therefore,

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Be it further enacted, That the said Malinda Morris be again restored to her maiden name, Malinda Ward, and that she have all the privileges of a feme sole.

Approved, February 8, 1828.

CHAP. 82.—An act for the benefit of John E. Wilson,

WHEREAS, it is represented to the present General Assembly, That John E. Wilson is now the owner of four hundred acres of land in Livingston county, on County Court certificate No. 529, surveyed for Dempsey Jarrell, on the 24th of April, 1804, and patented to David Dickey on the 31st day of October, 1811, and it appearing to this General Assembly that there has been a mistake in the survey in some of the calls in the courses, which causes the patent not to cover all the land, and the said Wilson having given notice and made application to the County Court of Livingston, and has got the land re-surveyed and examined by the court, and the mistake certified to the Register of the land office: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That on the said re-survey being presented to the Register of the land office, which was certified by the Livingston County Court at their November term, 1827, it shall be the duty of said Register to issue to the said Wilson a patent for all the land included in said re-survey; *provided*, said patent herein directed to be issued, shall not take and hold any claim which shall interfere with said patent.

Register to issue another patent upon a re-survey.

Approved, February 8, 1828.

CHAP. 83.—An act to amend an act entitled an act to regulate the several laws regulating the towns of Harrodsburg, and Richmond and Hopkinsville, approved December 21st, 1825.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the tenth section of an act entitled, "an act to amend the several laws regulating the towns of Harrodsburg, and Richmond

1828.

and Hopkinsville," approved December 21st, 1825, shall be and the same is hereby repealed.

SEC. 2. *Be it further enacted*, That the laws in force regulating the town of Richmond, at and before the passage of said recited act, are hereby revived and declared in full force.

SEC. 3. *Be it further enacted*, That the trustees of the town of Richmond, shall have power to levy a sum of money, by way of tax on said town, not exceeding four hundred dollars annually.

Approved, February 8, 1828.

CHAP. 84.—An act supplementary to an act entitled "an act for the benefit of Thomas Smith and others," approved the 31st of December, 1827.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the Register of the land office to receive a survey for twenty-five acres of land, signed by James G. Hardy, and issue a patent to Thomas Smith thereon, agreeably to the provisions of the said recited act.

Approved, February 8, 1828.

CHAP. 85.—An act to add a small part of Warren to the county Allen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the first day of March next, all that part of Warren county lying within the following bounds, shall be added to and become a part of Allen county: Beginning on the Warren and Allen county line, where it crosses Bay's fork, thence down Bay's fork to Barren river, thence up the river to the county line, and with the same to the beginning. The Circuit and County Courts and Justices of the Peace of the county of Warren shall have jurisdiction over all matters depending before them at the commencement of this act: and it shall be lawful for all Sheriffs, Constables and Collectors in said county of Warren, to collect all taxes, fines and other monies which may be in their hands for collection, and shall account for the same in the same manner as if this act had not passed.

Approved, February 8, 1828.

CHAP. 86.—An act to ratify and confirm the line of thirty-six degrees, thirty minutes, as run by Thomas J. Matthews.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the chartered line of the State of Kentucky, of thirty-six degrees and thirty minutes, as run by Thomas J. Matthews, by virtue of an act of the General Assembly, be, and the same is hereby declared to be the true chartered line, and the owners of land warrants purchased from the Commonwealth of Kentucky, are hereby authorized to locate the same on any waste and unappropriated land up to said line.

Approved February 8, 1828.

CHAP. 87.—An act for the benefit of the Clerk of the Nicholas Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Clerk of the Nicholas Circuit Court, be, and he is hereby permitted to remove the books, papers and records, of his office, to a lot owned by the said Clerk, adjoining the town of Carlisle: *Provided however,* That said office shall not be removed until the said Clerk shall have erected a building fire proof, for the purpose of keeping the records, books and papers in, within two hundred and fifty yards of the court house: *Provided further,* That previous to any such removal, it shall be the duty of the Judge of the Circuit Court to examine the building erected by the Clerk, and if he is of opinion that the same is safe and secure, he shall certify the same, and enter such certificate on the records of the said Court, and thereupon, the said Clerk may remove the books and papers of his office, to be kept and remain in the said new building, free of rent, until the County Court of Nicholas shall have erected a safe and suitable building for that purpose.

Authorized to remove books &c. to a new office.

Proviso.

Approved, February 8, 1828.

CHAP. 88.—An act to establish an election precinct in Floyd county, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of Floyd county included in the following bounds, to-wit: Be-

Precinct established.

1828.

Place of holding elections in a precinct in Perry county changed.

ginning at the forks of Beaver creek so as to include Alexander Lackey's, thence running up the left hand fork of said creek in such manner as to include all the waters of said left hand fork, shall be an election precinct in the county of Floyd, and that all legal elections shall be held at the house of David Spurlock, in said precinct: *Provided*, That nothing herein contained shall prohibit the voters in said precinct from voting at the court house.

SEC. 2. *Be it further enacted*, That the precinct election, now held at the mouth of the rock house fork in Perry county, be hereafter held at the house of John Summers, in said precinct.

Approved, February 8, 1828.

CHAP. 89.—An act concerning the appropriation of fines and forfeitures in the counties of Mason and Nicholas.

Fines of Mason county appropriated to the county Seminary.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act entitled, "an act to regulate the appropriations of fines and forfeitures in the county of Mason," approved January 25th, 1827, be and the same is hereby repealed, and that the fines and forfeitures in said county shall be, and they are hereby vested in the trustees of the Seminary of learning established by law in said county, for the use and benefit thereof: and the provisions of the several acts and parts of acts, repealed by the aforesaid act of January 25th, 1827, are hereby revived and declared to be in force, so far as they relate to the fines and forfeitures in the said county of Mason.

Fines in Nicholas to be paid to the county Seminary.

SEC. 2. *Be it further enacted*, That "an act concerning the appropriation of fines and forfeitures," approved the 25th December, 1820, so far as the provisions of the same may relate to fines and forfeitures in the county of Nicholas, be, and the same is hereby revived, and that all fines and forfeitures accruing in said county, shall hereafter be appropriated to the use and benefit of the Seminary of learning in said county. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

Approved, February 8, 1828.

CHAP. 90.—An act for the benefit of the Commissioners appointed to fix the county seat of Anderson county.

1828.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That at the next Court of Claims for the county of Anderson, the said Court shall receive, allow and levy money, to pay to the Commissioners or their representatives, who located the Seat of Justice for Anderson county, seventy-two dollars for their services in performing that duty.

Approved, February 8, 1828.

CHAP. 91.—An act to establish a State Road from Brandenburg on the Ohio river, to Bowlinggreen.

WHEREAS, it is represented to the present General Assembly, that the public will be greatly benefitted, Preamble. by opening a road from Brandenburg on the Ohio river, in Meade county, to Bowlinggreen in Warren county, on the most direct route that can be selected, passing through Litchfield: Wherefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That John Murray, of the county of Meade, Nathan D. Anderson, of the county of Breckenridge, Harvey Giles, of the county of Grayson, George Adams, of the county of Edmonson, and Simeon Jenkins, of the county of Warren, be, and they are hereby appointed commissioners, who, or a majority of them, after being first duly sworn before some Justice of the Peace, shall proceed to view and mark a road, the nearest and best practicable way from Brandenburg on the Ohio river; through the counties Breckenridge, Grayson and Edmonson, to Bowlinggreen in the county of Warren; and it shall be the further duty of said commissioners, so soon as they shall have completed the reviewing and marking said road, to make out five fair copies and return one to the County Court of Breckenridge, one to the County Court of Meade, one to the County Court of Grayson, one to the County Court of Edmonson, and one to the County Court of Warren, together with the probable number of hands adjacent to the several parts of roads in the respective counties, and also what probable number of hands will be required to clear out such parts as may be in each county.

Commr's appointed.

Route of the road.

Commr's to report to the City Courts.

SEC. 5. *Be it further enacted,* That the several County Courts, through which the road may run,

1828.

City Courts
may order the
road in their
respective
counties to be
laid off, &c.

immediately after the report of the commissioners, at their discretion, may lay off their respective parts of said road into one or more convenient precincts, and proceed to make an order for clearing out said road thirty feet wide, clear of all timber in all practicable places, the stumps not to be more than twelve inches high, and to bridge and causeway all difficult places, and otherwise put the several parts of road in good order for travelling. And if they shall elect to lay off said road, it shall be the further duty of said Courts, to appoint a surveyor upon each precinct or section of road so laid off in their respective counties, and shall allot to each, the number of hands to which he is entitled, or the boundary from which he shall draw them; copies of which order shall be given to said surveyor, within fifteen days after granting the same, by the Sheriff of said counties.

Penalty for
failing to
work on road.

SEC. 3. *Be it further enacted*, That each and every person, on such order or in the bounds so allotted, who shall fail or refuse to do his duty in clearing out said road without good cause shewn, after having been duly notified by the surveyor or some one appointed by him for that purpose, shall be subject to a fine of one dollar, and twenty-five cents for each day he so refuses or fails, recoverable before any Justice of the Peace in the county where said work is to be done; and the several surveyors who shall be appointed under the provisions of this act, who shall fail to do the duties assigned them, without good cause shewn, shall forfeit and pay the sum of five dollars, recoverable before any Justice of the Peace in the county where they shall be appointed: *Provided however*, That five days notice shall be given the delinquent.

Penalty on o-
verseers for a
failure to do
their duty.

Damages may
be assessed,
&c.

SEC. 4. *Be it further enacted*, That when any person, through whose land the said road shall be viewed, shall object to the opening the same, the Sheriff of the county in which the land may lie, shall, at the direction of one or more of the commissioners, summon a jury to meet on the land on a certain day in the commissioners order mentioned, who shall be first sworn and then ascertain the damages that may arise from opening said road, which, together with the Sheriff's fees, shall be paid out of the next county levy of the county in which said land may lie, the claim being first allowed by the County Court.

SEC. 5. *Be it further enacted*, That the commis-

sioners shall be entitled to receive one and an half dollars per day each, for the actual time employed in viewing and marking said road, on his returning a certified statement of the number of days he or they were so employed, to the Court of Claims.

1828.

Approved, February 8, 1828.

CHAP. 92.—An act to add a part of Gallatin county to Owen county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of March next, all that part of the county of Gallatin within the following boundary, shall be added to and compose a part of the county of Owen, to-wit: Beginning at Marion on the Kentucky river, thence running down the same to the mouth of Eagle creek, thence up Eagle creek to Spencer lick, thence with the line dividing Owen and Gallatin to Marion, the place of beginning.

Boundary of the addition to Owen c'ty.

SEC. 2. *Be it further enacted*, That the Circuit and County Courts of Gallatin and the Justices of the Peace of said county, shall have jurisdiction over all matters within the said bounds, which may or shall be depending before them before the first day of March next, and the Sheriff or other collectors for the county of Gallatin, may collect all monies or public dues from the citizens within the said bounds, which shall have fallen due before the first day of March next.

Courts and Justices of the Peace to retain jurisdiction, and officers to make collections.

Approved, February 8, 1828.

CHAP. 93.—An act concerning Salem Academy in Nelson county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the trustees of Salem Academy, shall be, and they are hereby authorized to sell and convey any number of acres of the land belonging to said Academy, which may be necessary to raise a fund sufficient to pay for repairing the buildings and fencing the lot of said Academy; and it shall be the duty of the trustees aforesaid, to sell the land for the best price which can be had, and they are required to appropriate the money in a manner best calculated to promote the permanent interests of said Academy.

Trustees authorized to sell and convey a part of their donation lands.

Approved, February 9, 1828.

1828.

CHAP. 94.—An act for the benefit of Elizabeth Lemon.

WHEREAS, it is represented to this General Assembly, that Elizabeth Lemon of Virginia, was the owner of two hundred acres of land, situate in the county of Bullitt, in this Commonwealth, which, since the death of her husband, by the non-payment of the taxes due thereon, has been forfeited to the State: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Elizabeth Lemon shall be permitted to redeem said land by the payment of the taxes due thereon, and interest, together with all costs that may have accrued, in the same manner as though no forfeiture had taken place: *Provided,* That nothing herein shall be so construed as to effect any interfering claim.

Approved, February 9, 1828.

CHAP. 95.—An act concerning the Lunatic Asylum.

\$6000, appropriated for present year.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the sum of six thousand dollars be, and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, to be paid to the commissioners of the Lunatic Asylum at Lexington, for the support of said institution for the present year.

Lunatic paupers upon being restored to be furnished with travelling expenses.

SEC. 2. *Be it further enacted,* That when any lunatic pauper, an inmate of the institution, may be restored to sound mind, the commissioners are hereby authorized to allow said pauper a reasonable sum out of the funds of the institution, to bear his or her expenses in travelling home; *Provided,* The same be within the State of Kentucky, and shall not exceed the sum of one and a half dollars for every twenty miles.

Receipts and accounts to be taken and kept, &c.

SEC. 3. *Be it further enacted,* That in the purchase of any and every item of provisions, clothing, firewood and other things, for the use of the Lunatic Asylum, the commissioners or person making the purchase, where the whole amount so purchased or received, from one individual at the same time, shall be three dollars or upwards, shall take a receipt of the individual from whom the purchase is made, for the price agreed to be paid, which receipt shall show each separate item and its price, and the date of

such purchase, and where the price shall not amount to three dollars, the commissioners or person purchasing, shall keep a book of accounts, in which he shall enter the items purchased, the price of each item, the name of the person from whom the purchase is made, and the date of making the same; which books and receipts shall be submitted to the Legislature or any committee of either branch thereof when required; and it shall be the duty of said commissioners, to purchase or cause to be purchased, every article that may be necessary for the support of said institution, at the then lowest cash selling price.

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To be annually submitted to the legislature or committees thereof.

SEC. 4. *Be it further enacted*, That it shall be the duty of the said commissioners, to ascertain upon what terms they can procure a good and substantial wall of brick or stone, sufficient to restrain the lunatics from escape, built around the public ground, including the building, and make report what will be the whole length, height and thickness of such wall, how deep it will have to be inserted in the earth, of what materials it ought to be built, in what manner it will be finished on the top of the wall, and every other important circumstance in relation to it: And the better to enable said commissioners to ascertain this fact, they shall advertise in some newspaper printed in Lexington, four weeks in succession, for proposals as to the erection of said wall, subject to be accepted or rejected by the Legislature, and require all such proposals to be made in writing, which shall be submitted to the Legislature.

Comm'rs to inquire and report the terms on which the grounds can be enclosed, &c.

And for that purpose to advertise proposals.

SEC. 5. *Be it further enacted*, That it shall be the duty of the commissioners aforesaid, to ascertain whether any lot or lots of land adjoining the public ground upon which the institution is erected, can be purchased, and if so, report what quantity, at what price, and from whom the same can be purchased; and also report a map of the same and of the public ground, shewing their connection and relative situation to the Legislature at its next session.

Also to inquire and report whether any additional ground can be purchased, &c.

SEC. 4. *Be it further enacted*, That it shall be the duty of the commissioners aforesaid, a majority thereof concurring, to draw up a code of rules for the government of the institution, which shall prescribe the duties of the several officers and assistants, and by which all of them shall be governed.

Comm'rs to draw up a code of rules.

1828.

CHAP. 86.—An act for the benefit of the Keeper of the Penitentiary.

\$1000, stipulated to be paid the Commonwealth by Keeper to be withheld.

Proviso.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sum of one thousand dollars, stipulated to be paid annually by Joel Scott, keeper of the Penitentiary, into the treasury of this State, the payment whereof may be withheld by the said Scott, for the year one thousand eight hundred and twenty-seven: *Provided however,* That the one thousand dollars as aforesaid, shall be considered as so much paid on the part of the State, for the contract and work done by said Scott towards the rebuilding of the Capitol, and the commissioners of said building are hereby required to settle said amount with said Scott, in any settlement hereafter to be made touching the premises.

Approved, February 9, 1828.

CHAP. 97.—An act to legalize the proceedings of the Madison and Bullitt County Courts.

WHEREAS, it is represented to the General Assembly, that the Madison County Court failed to lay their county levy in the time prescribed by law: For remedy whereof,

Proceedings of Madison County Court legalized.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the proceedings of the said Court in laying their county levy, in December, one thousand eight hundred and twenty-seven, after the time within which it should have been done had elapsed, shall be, and the same are hereby declared to be as valid to all intents and purposes, as though they had taken place within the proper time.

Of the Bullitt County Court legalized.

SEC. 2. *Be it further enacted,* That the proceedings of the Bullitt County Court, held on the fifth and sixth days of February and on the fifth and sixth days of March, one thousand eight hundred and twenty-seven, be, and the same are hereby legalized and rendered as valid and binding as though said days had been the regular days of holding said Court.

Approved, February 9, 1828.

CHAP. 98.—An act to authorize the surveyors of Lincoln and Pike counties to transcribe parts of their record books, and for other purposes.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that a part of the book, in the Surveyor's office of Lincoln county, in which the early surveys made in this State was recorded, has become mutilated, the leaves torn and loose, so that they are in danger of being lost: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Surveyor of Lincoln county be, and he is hereby authorized and required to transcribe and copy so much of said record book as is mutilated and in danger of being lost, and annex the part so transcribed to said record book, and make out a complete alphabet therefor.

Surveyor to copy a part of his record book.

SEC. 2. *Be it further enacted,* That the County Court of Lincoln county be, and are hereby required to appoint two persons, qualified, to examine said book of surveys, and report to the said County Court the number of pages which, in their judgment, it will be necessary to copy; which said report shall be entered upon the records of said court; and the said Surveyor shall thereupon cause the same to be transcribed, agreeably to the first section of this act, and the persons appointed to make said report, shall superintend the copying of so much of said book as is required to be transcribed, and see that it be correctly done, all which they shall report to the said Court: and that part of said book so transcribed shall be transmitted by the persons appointed to make said report to the Clerk's office of the Lincoln Circuit Court; and it shall be the duty of said Clerk of the Lincoln Circuit Court to file that part of said book so copied in his office, for safe keeping, for the inspection of any person or persons that may see proper.

County Court to appoint comm'rs to examine how much of the book needs copying.

Part of book transcribed from to be returned to C'ty Court.

Duty of Clerk

SEC. 3. *Be it further enacted,* That the said Surveyor shall be allowed one and a half cents for every twenty words he shall write in copying said record, and two dollars per day for making an alphabet therefor, to be paid out of the county levy, to be levied at the next Court of Claims.

Allowance made to surveyor.

SEC. 4. *Be it further enacted,* That it shall be the duty of the Surveyor of Pike county to cause the en-

Duty of the surveyor of Pike county.

1828. try book belonging to his office to be copied in a fair hand in a suitable book for that purpose.

County Court to appoint a person to examine a copy of entries.

SEC. 5. *Be it further enacted*, That as soon as said book of entries shall be copied as aforesaid, the County Court of Pike county shall appoint some fit person, who shall, with the Surveyor, carefully examine and compare the copy thus made out with the original, and if they find it correct, it shall be their duty to certify under their hands, that they have carefully examined and compared the entries thus copied with the original book, and that the same contains a full, true and perfect transcript of the entries, of which it purports to be a copy; and the person so employed shall be entitled to receive one dollar per day for each day that he may necessarily be employed in performing the duties so enjoined on him, to be paid by the Surveyor.

Allowance to commissioner.

Copy made out to have same force as the original.

SEC. 6. *Be it further enacted*, That the copy made out as aforesaid, shall have all the force, credit and validity which the original had; and that any copy or copies therefrom, duly attested according to the ordinary forms of law, by the Surveyor, shall have the same force, credit, and validity; *Provided*, the County Court of Pike county may so order, which the original had, from which said copy is taken.

Proviso.

Allowance to surveyor.

SEC. 7. *Be it further enacted*, That the Surveyor shall be entitled to three cents for every entry transcribed; and the County Court of Pike, at their next Court of Claims, shall levy and pay the said Surveyor for the copy thus directed to be made out.

Original book to be transmitted to the Clerk of the Circuit Court

SEC. 8. *Be it further enacted*, That the original record book shall be transmitted by the Surveyor to the Clerk of the Pike Circuit Court, to be by said Clerk carefully preserved in his office, subject to, the inspection and examination of any person or persons interested.

Approved, February 9, 1828.

CHAP. 99.—An act to provide for an additional chancery term of the Madison Circuit Court.

Term when held.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Judge of the Madison Circuit Court shall hold an additional term thereof annually, to commence on the fourth Monday in October, and continue one week, exclusively for the trial

of chancery suits, and the transaction of chancery business: *Provided*, that notice of the first term directed to be held by this act, shall be given in the newspaper or papers printed at Richmond, at least thirty days before the commencement of said term.

1828.
Proviso.

Approved, February 9, 1828.

CHAP. 100.—An act for the benefit of John Cooper.

WHEREAS, it is represented to the present General Assembly, That Nancy House was found a lunatic by the verdict of a jury rendered at the November term of the Morgan Circuit Court; that John Cooper kept and supported the said Nancy for and during the period of one year, for which the said Cooper was allowed the sum of fifty dollars by said court, which the Auditor of public accounts refuses to pay, and that the said Nancy is now dead:

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury, in favor the said John Cooper, for the sum of fifty dollars, to be paid out of any money in the treasury not otherwise appropriated.

Approved, February 9, 1828.

CHAP. 101.—An act prescribing the mode of proceeding against civil officers for issuing illegal fee bills.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all civil officers in this Commonwealth, who are by law authorized to issue fee bills, shall be subject to the same fines, forfeitures and liabilities to which Clerks of courts are now subject for issuing fee bills containing illegal charges, and may be proceeded against in the same manner.

Civil officers liable to penalties.

SEC. 2. *Be it further enacted*, That the production of the fee bill, by the party charged, shall be prima facie evidence of its payment.

Fee bills to be prima facie evidence.

Approved, February 9, 1828.

1828.

CHAP. 102.—An act to authorize Clerks of Courts to administer oaths in vacation, in certain cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Clerks of the several Courts of record, and their deputies, shall have the same power to administer oaths in their office in vacation, to complainants and defendants in chancery, which they now have in term time.

Approved, February 9, 1828.

CHAP. 103.—An act to fix the ratio and apportion the representation for the ensuing four years.

Ratio fixed.

Representatives in the House of Representatives.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the ratio for the ensuing four years shall be eight hundred and thirty four voters for each representative, and the representation for that period shall be and the same is hereby apportioned amongst the several counties in this Commonwealth, for the House of Representatives, in the following manner, to-wit: The county of Adair shall be entitled to one representative, Allen one, Anderson one, Bourbon three, Bath one, Barren two, Bullitt one, Breckinridge one, Bracken one, Boone one, Butler and Edmondson one, Clay and Perry one, Caldwell one, Clarke two, Campbell one, Christian one, Cumberland one, Casey one, Calloway one, Daviess one, Estill one, Fayette three, Floyd and Pike one, Fleming two, Franklin one, Grayson one, Greenup one, Garrard two, Green two, Gallatin one, Grant one, Hardin and Meade two, Harrison two, Henry two, Hopkins one, Hickman, Graves and M^cCracken one, Harlan and Knox one, Hart one, Jefferson three, Jessamine one, Lincoln one, Logan two, Livingston one, Lewis one, Lawrence and Morgan one, Madison three, Mason two, Mercer three, Muhlenburg one, Montgomery two, Monroe one, Nelson two, Nicholas one, Ohio one, Owen one, Oldham one, Pendleton one, Pulaski one, Rockcastle one, Russell one, Scott two, Shelby three, Simpson one, Spencer one, Trigg one, Todd one, Henderson and Union one, Woodford one, Warren two, Wayne one, Washington three, and Whitley one.

SEC. 2. For the purpose of apportioning the representation in the Senate, this State is hereby laid off into thirty-eight Senatorial Districts, as follows,

to-wit: The counties of Adair, Casey and Russell shall compose the first; Cumberland and Monroe, the second; Barren and Edmondson, the third; Allen and Warren, the fourth; Logan and Simpson, the fifth; Butler, Grayson and Muhlenburg, the sixth; Hopkins, Henderson and Union, the seventh; Callo-way, Hickman, Graves, M'Cracken, Livingston and Caldwell, the eighth; Christian, Trigg and Todd, the ninth; Ohio, Daviess and Breckinridge, the tenth; Green and Hart, the eleventh; Hardin and Meade, the twelfth; Jefferson and Bullitt, the thirteenth; Henry and Oldham, the fourteenth; Shelby, the fifteenth; Washington the sixteenth; Mercer the seventeenth; Garrard the eighteenth; Lincoln, Rockcastle and Laurel, the nineteenth; Madison the twentieth; Pulaski and Wayne, the twenty-first; Knox, Clay, Harlan, Perry and Whitley, the twenty-second; Nelson and Spencer, the twenty-third; Boone and Campbell, the twenty-fourth; Grant, Pendleton and Gallatin, the twenty-fifth; Franklin, Owen and Anderson the twenty-sixth; Scott the twenty-seventh; Harrison the twenty-eighth; Bracken and Nicholas, the twenty-ninth; Bourbon the thirtieth; Mason the thirty-first; Greenup, Lewis and Lawrence, the thirty-second; Fleming the thirty-third; Montgomery and Estill, the thirty-fourth; Clarke the thirty-fifth; Woodford and Jessamine, the thirty-sixth; Bath, Morgan, Floyd and Pike, the thirty-seventh; and Fayette the thirty-eighth.

1828.

In the Senate.

SEC. 3. In order to ascertain the polls, where two or more counties compose a Senatorial district or districts to elect a representative, the Sheriff of such counties shall meet at the court-house first named in such district, either in choosing a Senator or Representative, to compare the polls, on the first Monday after the commencement of the election; and having ascertained, by faithful comparison and addition, the amount of their respective polls, and shall make return of the persons elected, in the manner prescribed by law. *Provided however*, that when a writ of election may be issued by either branch of the General Assembly, or by the Governor, an earlier day may be ordered in such writ for comparing the polls, if it should be deemed expedient.

Polls how to be compared, and returns made.

Proviso.

SEC. 4. If any new county shall be established before the next enumeration and apportionment of representation, it shall be considered as a part or parts

If new counties be made, how they are to vote.

1828.

If Sheriffs do not attend elections the judges to appoint.

of the county or counties from which it was taken, or the purpose of representation.

SEC. 5. That whenever it may so happen, by death or otherwise, that there is no Sheriff to attend the several elections, that it shall be lawful for the judges appointed to conduct said elections, to appoint a proper person to superintend said elections, and be governed by the same rules and regulations that Sheriffs now are by law.

Approved, February 9, 1828.

CHAP. 104.—An act for the benefit of Capt. Mair's company of the 114th regiment.

Capt. Mair's Company detached to the 30th regiment

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Captain Samuel Mair's company of militia shall be detached from the 114th regiment, and added to and compose a part of the 36th regiment.

Bounds of the 64th regiment extended.

SEC. 2. *Be it further enacted*, That the bounds of the 64th regiment of the Kentucky Militia, shall be and the same is hereby extended east with the State line to the Monroe county line, and with the same to the road leading by Col. Richardson P. Hughes', thence with the south side of said road to a point west of Col. Hughes' residence, thence north so far that a south-east line will intersect the said road so as not to include Colonel Hughes, thence with the north side of the same to the Monroe line, and with the same to the Barren county line, and with the same to the present line of said regiment: and that the commissioned officers within this part of the 109th regiment, hereby attached to the 64th regiment, shall be commissioned for the 64th regiment, with reference to the date of their present commissions, and shall take rank accordingly.

Officers to retain their rank.

Approved, February 9, 1828.

CHAP. 105.—An act for the benefit of James Patton.

Preamble.

WHEREAS the extraordinary services and expenses of James Patton, Deputy Sheriff of Harrison county during the years 1825 and 1826, in summoning venuries and attending to the several trials of Isaac B. De-sha, require that a just and reasonable compensation should be made to him for the same: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts is hereby directed to issue his warrant upon the treasury in favor of the said James Patton, for the sum of three hundred dollars, which shall be received by the Treasurer and applied to the credit of William Ardery, principal Sheriff of Harrison county, on any sum which the said Ardery may be owing to the treasury: and the said James Patton and his securities shall have a credit for the same with his principal.

1828.

Allowance to Patton for extra services as deputy Sheriff of Harrison county.

Approved, February 9, 1828.

CHAP. 106.—An act to authorize the draining of certain ponds of water in the county of Jefferson.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the passage of this act, it shall and may be lawful for any person or persons who may be desirous to drain any of the ponds lying in that part of the county of Jefferson commonly called and known by the name of the pond settlement, to cut and make such ditches, channels or drains as may be necessary, to clear any of said ponds of water, and to carry the same through the lands of any person or persons whatsoever. And in order to effect that purpose, may in like manner change the course and bed of any branch or stream supplying any of the ponds aforesaid with water, from one pond to another, through which the said stream may the more readily be discharged into any other natural channel for water; and for that purpose may make banks, drains or ditches, as may best suit, and be deemed necessary to accomplish such draining. And if any person or persons upon whose lands it may be necessary to construct such drains or banks, shall refuse to permit the same, the person or persons who wish to perform and accomplish said draining, may thereupon make application to the court of said county for the purpose, and the court shall then proceed in the same manner to the condemnation of any land needful for said draining, as is required in the case of application for a public road; and upon the hearing of the case, may allow or disallow the opening of such drain or conduit, as to them may seem just and right.

SEC. 2. *And be it further enacted,* That in any case

1828. where damages shall be assessed in pursuance of this act, such damages shall be paid to the party entitled thereto, by the said applicants, for such permission to drain before they shall be allowed to commence the work.

Approved, February 9, 1828.

CHAP. 107.—An act to authorize the County Court of Logan to appoint Commissioners to settle with Spencer Curd, as Commissioner appointed by law to sell a part of the real estate of Nathaniel Drake, deceased.

Preamble.

WHEREAS, by an act of the General Assembly of the Commonwealth of Kentucky, passed and approved January 31st, 1818, Spencer Curd was appointed as a Commissioner for and on behalf of the infant heirs of Nathaniel Drake, to sell and dispose of the real estate of the said infant heirs, for the purpose of settling the demands against said estate, which was represented to be greatly involved; and whereas the said Spencer Curd, in pursuance of said act, proceeded to sell and dispose of said estate, and paid off many of the debts of said estate, and no person by law is authorized to settle with said Curd: Therefore,

Commissioners to be appointed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the County Court of Logan be, and they are hereby authorized and directed, upon the application of the said Curd, or any of the heirs of said Drake, to appoint two or more persons as Commissioners to settle the accounts of the said Curd.

SEC. 2. *Be it further enacted,* That said Commissioners, after being duly sworn before some Justice of the Peace in and for the county of Logan, upon the application of said Curd, proceed to settle and adjust the accounts of the said Curd; he having first given the Administrators of said Drake due notice thereof, and make out a true and perfect list or inventory of all lands or real estate that may have been sold by the said Curd; also the amount received by him for the said lands, and when said amounts were severally received; also a true and perfect list of all sums of money paid out by said Curd, in pursuance to said law, to the administrators of said estate, and the time when the same was paid out. And said Commissioners shall in every other respect be governed by the

laws now in force upon the subject of appointing Commissioners to settle with Administrators or Executors. 1828.

SEC. 3. *Be it further enacted*, That said Commissioners shall return to the County Court of Logan one copy of the list or inventory so made out, and affix their signatures thereto.

Approved, February 9, 1828.

CHAP. 108.—An act concerning the seventieth regiment of Kentucky militia.

WHEREAS, it is represented to the present General Assembly, that the Colonel of the 70th regiment of Kentucky militia, from a misapprehension of his duty, failed to place in the hands of the Sheriff, the list of militia fines assessed in said regiment in the year 1826, which were collectable in 1827, and there is no law requiring the Sheriff to receive said list: Therefore, Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Sheriff of Green-up county shall receive the said list, and proceed to the collection of the same in the same manner as though the said fines had been assessed in the year 1827: *Provided*, That the said list be presented to him before the first day of May next: *And provided further*, That said Sheriff shall only be liable for said fines in those cases in which the persons against whom the same was assessed, remain in the county and are good and solvent, and may return his delinquent list and settle with the paymaster, at any time within one year from the time the same shall have been received by him. But nothing in this act contained, shall be construed to exempt the said Colonel from any fine or penalty that he may have incurred by reason of his failure to perform his duty in the above case. Fines of 1826 to be listed and collected. Proviso.

Approved, February 9, 1828.

CHAP. 109.—An act appointing commissioners to lay off and mark a State road from Harrodsburg to Smithland in the county of Livingston.

WHEREAS, it is contemplated to carry the mail in stages, from Harrodsburg on the road leading past Preamble.

1828.

Perryville, Lebanon, Greensburg, Glasgow, Bowlinggreen, Russellville, Elkton, Hopkinsville, Princeton and Salem, to Smithland: Therefore, for the purpose of improving said road with a view to turnpike the same,

Surveyors of the several counties to appoint commissioners.

Route to be viewed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the surveyors of Mercer, Washington, Green, Hart, Barren, Warren, Logan, Todd, Christian, Caldwell and Livingston, be, and they are hereby appointed commissioners respectively for their several counties, whose duty it shall be, sometime in the month of April next, to survey the present road leading through the respective towns aforesaid; the surveyor of Mercer county to begin at the town of Harrodsburg, and the surveyor of the other counties to begin where the present road enters the eastern border of their respective counties, and also note the points where all streams of water are crossed, also the dwelling houses on said road and county lines, and shall designate the same on his platt, and shall then cause a straight line to be run and marked from the following points: From Harrodsburg to Perryville, thence to the Mercer county line in a direction to Lebanon, thence to Lebanon, thence to Greensburg, thence to Glasgow, thence to Bowlinggreen, thence to Russellville, thence to Elkton, thence to Hopkinsville, thence to Princeton, thence to Salem, thence to Smithland.

Comm'rs to meet and make report.

SEC. 2. *Be it further enacted*, That it shall be the duty of said surveyors in the first mentioned six counties to meet in the town of Lebanon, and the surveyors in the last mentioned five counties to meet in Hopkinsville on the third Saturday in May next, and then and there compare notes and platts, and they shall immediately afterwards run the straight lines as above directed, having each made out one connected platt, shewing the whole road, which shall be returned and recorded in the Clerk's office of their respective County Courts, and also one platt to be recorded in each surveyors office.

C'ty Courts to cause the road to be opened.

SEC. 3. *Be it further enacted*, That it shall be the duty of the several County Courts, through which said road passes, if to them it shall seem proper, to cause the said road to be viewed and opened as marked, unless from the nature of the ground or other obstacles and objections it shall be found impracticable, and then in that event, the several county

courts as aforesaid, shall cause said road to be opened as near the straight line as convenient, having first observed the laws in relation to public highways, requiring writs of ad quod damnum, and other proceedings required by law.

1828.

SEC. 4. *Be it further enacted*, That each surveyor shall employ two chain carriers and a marker, who shall be sworn to act faithfully and impartially, and the surveyor shall be entitled to two dollars per day, for each day he may be employed in surveying and making out a plat of said road, and the chain carriers and markers shall be entitled to one dollar per day each, to be paid out of the respective county levies to be levied at their next Court of Claims.

Comm'rs to employ chain carriers and marker.

Compensation to commissioners, &c.

SEC. 5. That said road when opened, shall be under the jurisdiction of the several County Courts, as other roads in this Commonwealth.

Road to be under the jurisdiction of the County Courts.

Approved, February 9, 1828.

CHAP. 110.—An act for the benefit of the heirs of Peter Follis.

WHEREAS, it is represented by petition to the present General Assembly, that Mary Follis of Allen county, widow of Peter Follis, is now living on two hundred acres of poor head right land, held by virtue of a Warren County Court certificate, No. 56, which has been surveyed in the name of Peter Follis, assignee of Samuel Anderson, and filed in the Register's office; and that the said Peter Follis departed this life, leaving the said Mary Follis with a large family of children, poor and unable to pay the balance of the State price due thereon: Therefore,

Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office be, and he is hereby authorized and directed to issue the patent on the survey as in other cases, without the balance of the State price being paid thereon.

Register to issue a patent.

Approved, February 9, 1828.

CHAP. 111.—An act to extend the powers of the Trustees of Newcastle.

WHEREAS, it is represented to this General Assembly, that great inconvenience results to the inhabitants of the town of Newcastle, from the want of

1828.

Trustees em-
powered to
cause paved
foot-ways to
be made in
said town.

paved foot-ways on Main street and Main-cross street in said town: For remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of said town of Newcastle, are hereby authorized and empowered, to direct by ordinance, the owners of lots lying on Main street and Main-cross street, (or so much thereof as said trustees may deem expedient,) to construct, within twelve months from the passage of this act, such paved foot-ways as the said trustees or a majority of them may direct; and in case that any of the owners of said lots shall fail or refuse to comply with such ordinance within the time limited, said trustees shall have full power and authority to have said paved foot-ways constructed in front of the lots owned by such persons as may neglect or refuse.

May compel
owners of lots
to pay for the
foot-ways.

SEC. 2. *Be it further enacted*, That the trustees of said town of Newcastle, are hereby authorized and empowered, to proceed by warrant or otherwise, before any Court having jurisdiction, to collect the amount so laid out and expended in constructing said paved foot-ways, from each and every owner or owners of lots that may neglect or refuse to have the same constructed, within the time limited in the first section of this act.

Approved, February 9, 1828.

CHAP. 112.—An act appointing commissioners to view and mark a State road from Frankfort to the Tennessee line, in the direction of Georgia and Alabama.

C'ty Courts
to appoint
county sur-
veyors to run
and mark the
road.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the County Courts of Franklin, Anderson, Mercer, Lincoln, Pulaski, Wayne and Cumberland, to appoint the surveyor or some other suitable person or persons, of their respective counties, as commissioners to run and mark a State road from Frankfort to the Tennessee State line, in the direction to Georgia and Alabama: Beginning where the Harrodsburg road leaves the Louisville road at Matthew Clarke's, thence to Lawrenceburg, thence to Salvisa, thence to Harrodsburg, and so on, passing by Danville, Standford, Somerset, Monticello, and through Stogden's valley to the Tennessee State line, in the direction of Georgia and Alabama.

SEC. 2. *Be it further enacted*, That for the purpose

of avoiding unnecessary expense, the several surveyors or persons appointed under this act, shall employ the necessary chain carriers and markers, and in the month of May next, survey and lay off so much of said road as lies within their respective counties, taking care to note the different towns, water courses and other noted objects, upon said road, and where said road is altered from the ground upon which it runs, make a special note of the same, and make a plat thereof, which they shall return to their respective County Courts at the next term thereafter.

1828.
Surveyors to employ chain-men & markers.

SEC. 3. *Be it further enacted*, That the several County Courts shall cause said road to be opened according to the survey so made, if to them it shall seem proper to do so, saving to every individual over whose land said road may pass their writ of ad quod damnum, according to the now existing laws.

City Courts may cause said road to be opened.

SEC. 4. *Be it further enacted*, That the several surveyors or other persons appointed by virtue of this act, shall forward to the surveyor of Mercer county, a plat of their work, and it shall be the duty of said last mentioned surveyor to make a general plat of the whole of said road, which he shall file in the Clerk's office of the Mercer County Court, and shall if required, furnish to each of the other County Courts within the bounds of said road a copy of the same, at the costs of such of the County Courts as may require the same.

Survey to be reported to County Court of Mercer.

SEC. 5. *Be it further enacted*, That said surveyors shall each receive two dollars per day, the chain carriers and markers each one dollar per day, for the time they shall be severally employed, to be paid by their respective counties.

Pay to surveyors.

SEC. 6. *Be it further enacted*, That the ninth section of an act entitled, "an act to amend the laws relative to the turnpike and wilderness road," approved January the 25th 1827, be, and the same is hereby revived and continued in full force from and after the passage hereof.

Former law revived.

SEC. 7. *Be it further enacted*, That the commissioners named in the said ninth section of the act hereby revived and continued in force, shall make report to the several County Courts through which the said road from Millersburg to the mouth of Big Sandy passes, and the County Courts of each county shall have power to cause the said road to be opened agreeably to the survey and report of said commis-

Road from Millersburg to the mouth of Big Sandy to be opened.

1828.

sioners, and to alter or discontinue so much of the old road, as they shall think proper, saving to every person over whose land any alteration of such road may be made, his writ of ad quod damnum, and damages where they shall be assessed, agreeably to the existing laws in regard to roads.

Approved, February 9, 1828.

CHAP. 113.—An act for the benefit of Newell Beauchamp, deceased.

Preamble.

WHEREAS, it is represented to the General Assembly by the adult heirs of Newell Beauchamp, deceased, and a number of discreet house-keepers of the neighborhood, that said Beauchamp died possessed of a tract of land in Nelson county, lying on Chaplin's fork, on which land he had erected a grist and saw mill; that said Beauchamp died without a will, that there are a number of debts due by the estate, and to satisfy the same would take all his property, exclusive of the mill tract, and leave nothing for the widow and young children to live on; the heirs are desirous the tract of land and mills should be sold, and not the negroes and personal property: For remedy whereof,

Nelson Circuit Court authorized to decree a sale and conveyance of a tract of land.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That upon the heirs of said Newell Beauchamp exhibiting their bill in the Nelson Circuit Court, and satisfying the Judge of said court that the debts of said estate require the sale to save the negroes, and that it would be for the benefit of the heirs that said mills and tract of land should be sold, to decree a sale of said tract of land and mills upon such credit as the judge may deem expedient.

May direct the application of the proceeds of the sale.

SEC. 2. *Be it further enacted,* That after the sale is made, and the purchase money falls due, that the court shall appoint, (taking bond and good security to discharge the duties herein pointed out,) the Administrator or some fit person to collect and receive the proceeds of said sale, and apply the same in the following manner: first, the payment of the debts in the order directed by law, then the distribution of the residue to the adult heirs, as is now directed by law, and then as to the infant heirs, to put their shares

out at interest, and make an annual report to said court of the disposition of the infants' money.

1828.

Approved, February 9, 1828.

CHAP. 114.—An act to amend an act entitled "an act to incorporate Jamestown, in Russell county, and for other purposes," approved January 23d, 1827, and allowing an additional Justice of the Peace to Casey county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of an act entitled, "an act to incorporate Jamestown, in Russell county, and for other purposes," which authorizes the trustees therein named to sell any lot or lots within the bounds of the aforesaid town, or receive any money from the purchasers of any lot or lots therein sold, and also all that part which requires the trustees to enter into bond to the County Courts aforesaid, shall be and the same is hereby repealed.

Part of former law repealed.

SEC. 2. *Be it further enacted,* That the County Courts aforesaid shall appoint, from time to time, as necessity may require, an agent or commissioners, to sell the remaining unsold lots in the aforesaid town, at public vendue; to what extent and to what credit, the sales shall be made, shall entirely depend on the order of the County Court aforesaid.

County of Russell to appoint an agent.

SEC. 3. *Be it further enacted,* That it shall be the duty of the Clerk of the aforesaid court to attend the public sales of the aforesaid lots, for the purpose of assisting the agent or commissioners in taking notes from the purchasers, and passing a memorandum to each purchaser, describing the lot or lots by him so purchased; which notes shall be taken payable to the County Court aforesaid, and preserved by the Clerk aforesaid, in his office, subject to the disposition of said County Court. The County Court aforesaid shall have power to assign any such note to any county creditor or creditors, by an order of said court; which order, when made, shall compel the Clerk aforesaid to endorse upon each note thus ordered to be transferred, the name of the person or persons entitled thereto, attested by the Clerk. And the assignee or assignees of the aforesaid court shall stand upon the same footing that all assignees now stand, on bonds and notes made assignable by law.

Clerk of the County Court to attend the sales and give his assistance to the agent.

Notes may be assigned.

SEC. 4. *Be it further enacted,* That the trustees of the aforesaid town shall not make a deed of convey-

1828.

Deed to be
made upon or-
der of County
Court.

Consent of the
County Court
necessary to
execute the
provisions of
this act.

Justice all'd
to Casey.

ance to any purchaser until the purchaser produces to them a copy of an order from the County Court aforesaid, authorizing the conveyance to be made. The deed thus made shall vest all the title which now is vested in the County Court or Trustees aforesaid by law, completely in the purchaser or purchasers and their representatives.

SEC. 5. *Be it further enacted*, That in all cases a majority of the Justices of the Peace in and for the county aforesaid, shall consent, before a single provision of this act shall be carried into effect, except so far as this act repeals the act aforesaid.

SEC. 6. *Be it further enacted*, That one additional Justice of the Peace be allowed to Casey county.

Approved, February 9, 1828.

CHAP. 115.—An act regulating the town of Salvisa, in the county of Mercer.

Town estab-
lished.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town of Salvisa in the county of Mercer, so far as the same lies north of Walnut-street, be, and the same is hereby established according to the original plat of said town, as made by Robert B. McAfee, on the 16th day of June, 1818, under the directions of John McCoun, Sen. and Samuel McAfee, the proprietors of the land whereon it is located, and Lanty Holman, James Wood, Joseph McCoun, Francis Cuningham, and Jouitt F. Fletcher, are hereby appointed trustees of said town; and it shall and may be lawful for said trustees, together with the heirs of said John McCoun and Samuel McAfee, deceased, by themselves or legal guardians or guardian *ad litem*, to be appointed by the County Court of Mercer, who are hereby authorized to give their written consent to, have the plat of said town recorded in the office of the County Court of Mercer, and on the books of the said trustees; and thereafter the title to the lots of said town be, and it is hereby vested in said trustees, or a majority of them, who shall convey the same to the purchasers, upon the payment of the original purchase money; or upon failure thereof within two years from the passage of this act, to sell and convey the same to any other person, at public sale.

Trustees to
make deeds.

SEC. 2. That said trustees shall have power to lay

off a street or alley, not exceeding thirty feet wide, on the north, east and west sides of the out lots of said town, so far as the same is established by this act, and with the consent of the proprietors of the adjoining land, lay off into lots any quantity of land, not exceeding fifty acres, including the whole town; and exercise all the powers vested by this act over the same, when laid off; *provided*, that when any additional ground shall be laid off into lots, a plat of the same shall be recorded in the Clerk's office of the Mercer County Court, and on the books of said trustees.

1826.

Trustees may enlarge the bounds of the town.

SEC. 3. That it shall and may be lawful for the white male inhabitants of said town of Salvisa, of the age of twenty-one years, or the owner of any lot in said town, to elect, on the first Saturday in January, annually, five fit persons as trustees for said town, who shall hold their offices until their successors shall be elected and qualified. The said elections shall be holden by the Clerk of said board, who shall give one week's previous notice thereof, by advertising in writing, at three places in said town; and no person shall be elected a trustee of said town, unless he is above the age of twenty-one years, and has resided in said town at least six months previous to the election, or owns real estate in the same.

Trustees hereafter to be elected.

SEC. 4. That the trustees of said town shall have all the powers vested in the trustees of certain towns by "an act establishing and regulating certain towns in this Commonwealth," approved February 9th, 1819, as if the same was specially enumerated and set forth in this act,

Powers given to trustees.

Approved February 9, 1828.

CHAP. 116.—An act to amend an act entitled, "an act for the opening a road from Cynthiana to Maysville," approved January 24th, 1827.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Thomas A. Kennedy, is appointed a commissioner in the place of Alexander Dougherty, deceased, and James Conn of Nicholas county, is hereby appointed a commissioner in addition to the number appointed by said act of January 24th, 1827, for the purpose of carrying into effect the provisions of said act and this amendment thereto, and that a majority of the commissioners

Additional Commissioners appointed.

1828.

appointed by that act and this act shall be required in the location of said road.

Commissioners to report to their County Courts.

City Courts to cause said road to be opened and kept in repair.

SEC. 2. *Be it further enacted*, That when the said road is opened, it shall then be the duty of the commissioners to make reports to the County Courts of Harrison, Nicholas and Mason, to each respectively, so much of the location of said road as may be within the bounds of its county; which reports shall be entered on the records of said County Courts, and it shall become the duty of said County Courts to have such parts of said road as may be within their respective counties kept in repair, by appointing overseers and allotting hands to work the same, subject to the same laws and regulations as if said road had been established and opened by the orders of said County Court.

Approved, February 9, 1828.

CHAP. 117.—An act to establish a Female Academy in the town of Harrodsburg.

Trustees appointed and corporate powers given them.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Thomas Cleland, Thomas P. Moore, John B. Thompson, William Robertson, Sen. Beriah Magoffin, Benjamin F. Pleasants, Christopher Graham, William Hord, Joel P. Williams, Madison S. Worthington and John L. Smedley, and their successors shall be, and the same are hereby constituted a body corporate, under the name and style of "The Trustees of the Harrodsburg Female Academy," with full power and authority to have perpetual succession, and a common seal, and in that name to sue and be sued, plead and be impleaded, to acquire any estate, real, personal or mixed, by gift, purchase or otherwise, and the same to hold, sell and convey to the only use and purpose of establishing, conducting and supporting an academy, in or near the town of Harrodsburg, for the instruction and education of females.

Trustees to appoint officers, teachers, &c.

SEC. 2. Said trustees shall have power to appoint a chairman or president to their board, a treasurer, clerk, and all such officers and agents as they may deem necessary and proper for the judicious management of the property and funds of the corporation: they shall have power to appoint a principal teacher, and such under teachers and matrons as they may deem necessary and proper for the instruction and

proper discipline of the pupils, and to remove any of their officers when in the opinion of the board the interests of the corporation require it. They shall have power to enact by-laws and all needful regulations for the government, of the board of trustees, their officers, instructors and pupils, provided the same are not inconsistent with the constitution or any law of this Commonwealth: and they shall have power to fill all vacancies occurring in the board of trustees. In the transaction of all business by the board of trustees, a majority shall constitute a quorum: *Provided however*, that no principal teacher shall receive a permanent appointment or be removed when appointed, without the concurrence of two-thirds of all the trustees in office.

1828.

Makeby-laws

Fill vacancies in their board

Proviso.

SEC. 3. It shall and may be lawful for the trustees of the Mercer County Seminary, two-thirds agreeing thereto, to transfer to the corporation hereby created, all the estate and property belonging to said Seminary, to be used, held and possessed for the use and purposes herein provided: and in the event of such transfer, the said trustees of said Seminary shall be added to and constitute a part of the board of the trustees of the Harrodsburg Female Academy, and no vacancies in the board shall be filled, until the number of trustees is reduced to twelve, which shall be the permanent number of the board.

Trustees of Mercer county Seminary may transfer their funds, &c.

SEC. 4. The right to repeal, alter or modify this law is reserved to the legislature.

Approved, February 9, 1828.

CHAP. 118.—An act to establish an election precinct in the county of Barren, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all that part of Barren county contained within the following bounds, to-wit: Beginning at the mouth of Little Buck creek, and running with the Warren county line, until it intersects the Edmondson county line; from thence to Captain William Edmonson's; thence to Anthony Drane's; thence to Obediah Britt's; thence a straight line until it intersects the Barren county line, (or the line of the Tracy precinct;) thence with that line to Big Barren river; thence down the meanders thereof to the beginning—shall be an election precinct to be called the Rocky-hill precinct.

Boundary of precinct.

1828.

Where to vote

SEC. 2. *Be it further enacted*, That the voters living within the bounds aforesaid shall be at liberty to vote at the precinct aforesaid, or at the court house of Barren county, under such restrictions and regulations as are hereinafter prescribed.

C'ty Courts
to appoint
Judges and
Clerk.

SEC. 3. *Be it further enacted*, That the County Court of Barren county, at the time it appoints a Clerk and Judges to the election to be held at the court house, shall also appoint a Clerk and Judges to preside at said precinct; and it shall be the duty of the Sheriff of said county to attend by himself or deputy, and conduct the election in said precinct; which election shall be governed by the same rules and regulations as are now prescribed by law.

How elections
are to be gov-
erned.

Place of vot-
ing.

SEC. 4. *Be it further enacted*, That the election to be held in said precinct shall be held at the house of Franklin Settle, Esquire, until otherwise directed by law.

Place of vot-
ing in New-
Hope chang'd

SEC. 5. *Be it further enacted*, That the place of voting in the New-Hope precinct of Nelson county shall be changed from New-Hope to New-Haven; and the same rules and regulations for voting and comparing the polls shall be observed as is now directed by law.

Place of vot-
ing in Gray-
son changed.

SEC. 6. *Be it further enacted*, That the place of voting in the Short creek precinct, in Grayson county, shall be changed from Jacob Myers' old place, to the widow Porter's, on the Spring fork of Short creek; and the same rules and regulations shall be observed in voting and comparing polls as is now directed by law.

Place of vot-
ing in Adair
changed.

SEC. 7. *Be it further enacted*, That the place of voting in the Casey creek precinct in Adair county, shall be changed from Thomas Bland's to Fleming Goode's; and the same rules and regulations in voting and comparing polls, shall be observed as now directed by law.

Approved, February 9, 1828.

CHAP. 119.—An act for the benefit of the Surveyor of Hopkins county.

Preamble.

WHEREAS, it is represented, that from the decayed and loose state of the record book in the office of the surveyor of Hopkins county, the record of the County Court certificates, warrants and surveys, in said office cannot be preserved; and that said sur-

veyor, in obedience of an order of the County Court of said county, has transcribed all the reports of connected surveys made under orders of the Hopkins Circuit Court. 1828.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the surveyor of Hopkins county be, and he is hereby authorized and required to transcribe the said County Court certificates, warrants and surveys, in a well bound book.

To transcribe certain records in his office.

SEC. 2. That the County Court of Hopkins are hereby required, to appoint two fit persons to compare the said transcript with the original record, who shall be sworn faithfully to discharge that duty, and if it shall be correct, they shall certify the same to the County Court, and also the number of words in said transcript; and thereupon, the transcript so made out and the said transcript of the report of connected surveys, shall have all the force, credit and validity, which the original had, and any copy therefrom, duly attested by the surveyor, shall have the same force, validity and credit which the original had, from which the said copy is taken.

Transcript to be examined, &c.

Copies therefrom to have the force and credit of the original.

SEC. 3. The said surveyor shall be entitled to one and a half cents for every twenty words contained in the transcript directed by this act, and the persons appointed to compare the same, shall be entitled each to two dollars for every eight hours they may be engaged in making said comparison, to be levied and paid out of the county levy of Hopkins county.

Pay to the surveyor.

To the persons for comparing the copies.

SEC. 4. The said original records and connected surveys, shall be carefully preserved by the said surveyor in his office, subject to be inspected by any person interested.

Original to be preserved.

Approved, February 9, 1828.

CHAP. 120.—An act for the benefit of John Allen and others.

WHEREAS, it is represented that Mary H. Lamme, late Mary H. Curd, inherited from her father a lot of ground containing about forty-seven acres of land, and that it would be greatly to her advantage and that of her husband, Harvey Lamme, to make sale of the said land, and that the said Harvey Lamme and his said wife have agreed to sell the said land to John Allen, for a price agreed on, but owing to the non-age of the said Mary H. Lamme, no deed can be

Preamble.

1828.

executed, and the parties have applied to the General Assembly to enable the said Mary H. and her husband to convey the said land.

Proof to be
made before
County Court

Duty of C'ty
Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That upon the parties, the said Lamme and wife, and the said Allen, making it appear to the satisfaction of the County Court of the county of Fayette, that it would be to the advantage of said Mary H. Curd, to sell said land to the said Allen, they shall so declare their opinion and record it on record, that it will (in the opinion of said Court,) be for the interest of said Lamme and wife to make the sale, and they shall in said order, moreover authorize and direct their Clerk to take the acknowledgment of said Lamme, and the privy acknowledgement of his said wife, to a deed conveying the same, and if the said Mary H. Lamme shall duly execute the deed for said land in the manner directed, in cases of femes coverts, the said deed shall be good and effectual to pass the title of Mary H. Lamme, her in fancy notwithstanding.

Further pre-
amble.

And whereas, it is further represented, that the said John Allen hath agreed to exchange lands with William P. Curd, giving said Curd a tract of about forty-seven acres for fifty acres, and that said William P. Curd is under twenty-one years of age, but that he is nevertheless well advised of his interest and that it will be to his advantage to carry the cotract and exchange into effect.

Proof to be
made before
County Court

Duty of C'ty
Court.

SEC. 2. *Be it enacted*, That it shall be lawful for the Court of the county aforesaid, to inquire into and to receive proof of the fact, whether it will be to the interest of said Curd to make such exchange, and if it shall so appear to said Court, they shall enter their opinion upon the record, and also authorize their Clerk to take the acknowledgment of a deed from said Curd to said Allen, which deed, when duly acknowledged by said Curd, shall be as effectual to vest the right in said Allen, as if the said Curd were of the full age of twenty-one years: *Provided however*, That in each case, it shall previous to the Court's directing a deed to be made, be made to appear to the satisfaction of the Court, that said Allen had paid or satisfactorily secured the consideration in each case.

Provido.

Approved, February 11, 1828.

KENTUCKY.

123

CHAP. 121.—An act to authorize the County Court of Grant to sell a part of the public ground.

1828.

WHEREAS, it is represented that a lot in Williamstown in the county of Grant, on which a jail was formerly erected, is no longer required for that purpose, in consequence of a new jail having been erected on another lot: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the County Court of Grant be, and they are hereby authorized (a majority of all the Justices concurring,) to sell the lot upon which the old jail formerly stood, and the proceeds of said sale shall be applied towards paying for the new jail; and the said Court, by an order made of record, shall appoint a commissioner to make sale of said lot, who shall have the same power to convey said lot as a commissioner appointed by a Court of Chancery.

Approved, February 11, 1828.

CHAP. 122.—An act authorizing the appointment of trustees to the Jefferson and Morgan Seminaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the County Courts of Jefferson and Morgan counties, at their April term 1828, and annually thereafter, shall appoint nine trustees for the Jefferson and Morgan Seminaries, three of whom shall not have served the year last past, the trustees so appointed, shall have all the powers and privileges vested by law in the present board of trustees to said Seminaries; all acts or parts of acts coming within the purview of this act, are hereby repealed.

Trustees to be appointed.

Approved, February 11, 1828.

CHAP. 123.—An act to amend the act for the better regulation of the town of Winchester.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a slip of ground forty feet wide, off of the south side of the public square in the town of Winchester in Clarke county, and adjoining the lots of Thomas K. Moore, William Armstrong, James Simpson and Alfred Bowren, shall be, and the same is hereby vested in the trustees of said town, for the purpose of being forever used as a

A new street established.

1828.

street, to be called south street, and they shall have the same power and jurisdiction over said street which by law they have over the other streets and alleys in said town.

Male slaves to be taxed on the ad valorem principle.

SEC. 2. *Be it further enacted*, That hereafter, male slaves over sixteen years of age, in said town, shall be subject to the same ad valorem tax which said trustees are now authorized to impose on other slaves; and so much of any former act as authorizes the said trustees to impose a specific tax on male slaves over sixteen years of age, shall be, and the same is hereby repealed.

Approved, February 11, 1828.

CHAP. 124.—An act to allow additional Constables in certain counties.

The county of Gallatin allowed one Constable.

His residence.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be added to the county of Gallatin, one Constable in addition to the number now allowed by law, to reside in the town of Ghent in said county.

Wayne one.

His residence.

SEC. 2. *Be it further enacted*, That there shall be one Constable allowed in the county of Wayne, in addition to the number now allowed by law, to reside in the neighborhood of John Pevehouse, Esq.

Trigg one.

His residence.

SEC. 3. *Be it further enacted*, That there shall be an additional Constable allowed to the county of Trigg, in addition to the number now allowed by law, to reside in the town of Canton in said county.

Franklin one.

His residence.

SEC. 4. *Be it further enacted*, That one Constable shall be added to the county of Franklin, in addition to the number now allowed by law, who shall reside on the north side of main Elkhorn, below Gouldman's old mill.

Approved, February 11, 1828.

CHAP. 125.—An act to amend the act authorizing the County Courts to appoint Inspectors of Salt.

All salt imported to be inspected before it is sold or removed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all Salt imported into this State in barrels or casks, and landed at any place where an inspection of Salt has been or shall hereafter be established, shall, before the same is sold or removed from the place of landing, be inspected, as directed by an act of Assembly entitled, an

act to authorize the County Courts to establish inspections of Salt, approved January twenty-fourth, one thousand eight hundred and twenty-seven.

1828.

SEC. 2. *Be it further enacted*, That in addition to the marks directed to be made on the head of each barrel by the above recited act, the inspector shall cause the same to be branded above the number or letter, *Inspected*, with the inspector's name below, and shall cause a brand to be made for that purpose.

Additional marks and brands to be made.

SEC. 3. *Be it further enacted*, That any person who shall sell, at any place where an inspection is now or may hereafter be established, or remove, or permit to be removed from the place of landing, any Salt, without having the same inspected, shall forfeit and pay the sum of one dollar for each and every barrel or cask by him sold or removed, or permitted to be removed, by any one suing for the same, before any Justice of the Peace for the county in which such offence shall be committed, as other small debts are recovered.

Penalty for selling salt or removing it without inspection.

SEC. 4. *Be it further enacted*, That the County Court who have heretofore or who may hereafter appoint an inspection under the provisions of the act to which this is an amendment, if they shall deem it expedient, shall have full power, upon causing a notice to be served upon the inspector ten days before court, to remove said inspector from office for malfeasance or misfeasance in office, a majority of the Justices of the county concurring therein, and appoint another in his place.

County Courts may remove inspectors from office.

SEC. 5. *Be it further enacted*, That each inspector shall enter into bond in the County Court of the county in which he is appointed an inspector, in a penalty to be fixed by said court, with good security, conditioned for the prompt and faithful discharge of the duties of his office: which bond shall be taken to the Commonwealth of Kentucky, and may be sued on by any person who is injured by a breach thereof, in the name of the Commonwealth of Kentucky, for the use of the person injured.

Inspectors to give bond and security, &c.

SEC. 6. *Be it further enacted*, That any inspector, after he has been appointed and has taken the oath and executed bond, may appoint a deputy to assist him in the discharge of the duties of his office, for whose acts he shall be liable, upon his bond, in the same manner and to the same extent as if the act was performed by himself.

Inspectors of salt may appoint deputies

1828.

Duty of im-
porters of salt.

Proviso.

SEC. 7. *Be it further enacted*, That it shall be the duty of the importers of salt to call upon the inspector, and place the Salt in a convenient situation to be inspected; and it shall be the duty of the inspector to inspect and brand the same with all practicable despatch. *Provided*, that nothing in this act shall be so construed as to subject Salt to inspection that is landed and intended to be re-shipped for any other place.

Approved, February 11, 1828.

CHAP. 126.—An act for the benefit of the heirs of David Dickerson, deceased.

Recital.

WHEREAS, it is represented to this General Assembly, that David Dickerson, of the county of Jessamine, many years ago departed this life intestate; leaving four small children, two of whom have since become of age, and have removed from this Commonwealth, and two have not yet arrived at age; and whereas it is further represented that the said Dickerson died possessed of a tract of land in the county of Jessamine, on the waters of Hickman, containing about two hundred and twenty-five acres, which tract of land, from having been rented out for a number of years, has become unproductive, and a great part thereof turned out as waste land: Therefore,

Circuit Court
of Jessamine
authorized to
decree the
sale and con-
veyance of a
tract of land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon application being made to the Circuit Court of Jessamine county, by the heirs of said Dickerson, and their guardian, it shall be lawful for the Judge of the said Circuit to appoint the guardian of the said infant heirs commissioner to sell and convey the tract of land aforesaid: and the said commissioner, in conducting the sale, shall be governed by such rules as the court may prescribe, and shall execute bond, with approved security, for the faithful application of the money arising from the sale as aforesaid.

Approved, February 11, 1828.

CHAP. 127.—An act to amend an act entitled an act allowing additional justices of the peace and constable to certain counties, approved January 25th, 1827.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of the se-

cond section of said act as gives an additional constable to the county of Washington, to reside in the town of New-Market, be, and is hereby amended so as to reside within one mile of the town of New-Market.

1828.

SEC. 2. *Be it further enacted*, That it shall be the duty of the County Court of Nelson county to appoint an additional Constable for said county, who shall reside in the town of Bloomfield.

County Court
of Nelson to
appoint a
Constable in
Bloomfield.

Approved, February 11, 1828.

CHAP. 128.—An act to amend the laws concerning public roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the several County Courts in this Commonwealth shall have the same power to establish roads, not exceeding twenty feet wide, to houses of public worship, within their respective counties, under the same rules and regulations that govern them in establishing other public roads as now prescribed by law.

Approved, February 11, 1828.

CHAP. 129.—An act to repeal so much of an act approved December 21st, 1825, as allows an additional Justice of the Peace to the county of Bath as requires the same to reside in the town of Sharpsburg.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of an act approved December 21st, 1825, as allows an additional Justice of the Peace for the county of Bath, to reside in the town of Sharpsburg, be and the same is hereby repealed, so far as said act directs said Justice to reside in the town of Sharpsburg. And the County Court of Bath may, at the time of recommending a proper person to fill said appointment, said court may make such recommendation of a fit person or persons living in said town of Sharpsburg, or in any other part of said county as said court may seem fit, all the Justices in commission in said county concurring in said nomination.

SEC. 2. *Be it further enacted*, That if said Court should fail or refuse to make such nomination within six months from the passage of this act, the above re-

1828.

cited act, approved December 21st, 1825, shall be null and void, as though said recited act had never been passed.

Approved, February 11, 1828.

CHAP. 130.—An act authorizing the trustees of Grant Seminary to sell their donation lands.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the trustees of the Grant Seminary to sell and convey the whole or any part of the land located for said Seminary, and apply the proceeds thereof in the erection of a building for the accommodation of said institution.

Approved, February 11, 1828.

CHAP. 131.—An act to change the place of holding the election in the Meeting creek precinct, in the county of Hardin.

Place of voting in the precinct changed to H. Smallwood's.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the place of holding the election in the Meeting creek precinct, in the county of Hardin, shall be removed from the house of C. C. Reno to the house of Hezekiah Smallwood, at whose house the election in said precinct shall hereafter be holden.

Approved, February 11, 1828.

CHAP. 132.—An act for the regulation of the town of New-Market, in Washington county.

Preamble.

WHEREAS, the County Court of Washington, at their September term, one thousand eight hundred and seventeen, established in said county on the lands of Nathan H. Hall, Robert Scott and David Thurman, a town to be called and known by the name of New-Market, and vested the same in five trustees, to-wit: John Muldrow, Hugh Muldrow, William McAfee, James Mahan and David Kendley, all whom have removed out of the State of Kentucky, except the said McAfee, whereby the said town remains without trustees: For remedy whereof.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the free white male inhabitants of said

town, over the age of eighteen years, and for the owners of lots in said town, to meet at the house of Joseph G. McClelland, in said town, on the first Monday in March next, and elect five trustees for said town, who shall be citizens of said town or owners of lots therein, which trustees, when so elected, shall continue in office until their successors shall be duly qualified.

1828.

Inhabitants and owners of lots may elect trustees in March, 1828.

SEC. 2. *Be it further enacted,* That it shall and may be lawful for the citizens of said town and owners of lots as aforesaid, to meet at some public house in said town on the first Monday in January in each year hereafter, and elect five fit persons as aforesaid, to act as trustees of said town for one year after their election, and until their successors shall be duly qualified.

And annually thereafter in January.

SEC. 3. *Be it further enacted,* That the trustees of said town shall have full power and authority to levy on the citizens' negroes and lots of said town annually, as a tax, any sum not exceeding one hundred dollars, to be applied under the direction of said trustees, for the purposes of keeping the water, streets and alleys of said town in repair; and the said trustees shall have full power and authority to open the streets and alleys of said town, and in all respects have the same powers and be governed by the several general laws for the regulation of towns in this Commonwealth.

Powers of the trustees in regard to taxation, police, &c.

Approved, February 11, 1828.

CHAP. 133.—An act vesting the trustees of Springfield with power to pave the streets of said town.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the trustees of the town of Springfield, in the county of Washington, to cause the Main-street thereof to be paved from where Walnut-street crosses the same to the public square; and if the owner or owners of any lot or parts of lots shall fail or refuse to pave the same within sixty days after said trustees may direct the same to be done: they shall have power to cause the same to be paved, and make sale of said lots, or so much of each of them as may be sufficient to pay for the paving of the front thereof of one half the width of the street; they giving thirty days notice of the time and place of sale.

Trustees may cause certain streets to be paved.

1828.

Also certain
side walks to
be paved.

May levy and
collect a tax,
not exceeding
\$200 per ann.

Proviso.

SEC. 2. *Be it further enacted*, That the said trustees shall have power to cause the owner or owners of any lot or lots on Main-cross street, from Water street to High street, to make a good and sufficient foot-way in front of said lots, at least eight feet wide, under the same rules and regulations provided for in the first section of this act.

SEC. 3. *Be it further enacted*, That the trustees aforesaid shall have full power and authority to levy a tax to any amount not exceeding two hundred dollars per annum; for the purpose of improving said town: *Provided however*, That in levying said tax they shall not tax any tytheable person more than fifty cents, nor shall they assess more than twelve and a half cents on the one hundred dollars, on the valuation of any town property or negroes.

Approved, February 11, 1828.

CHAP. 134.—An act to provide for the building of bridges across certain water courses in Greenup county.

Books to be
opened.

Building of
bridges to be
let out to the
lowest bidder.

County Court
may receive
an assignment
of subscrip-
tion list, and
sue therefor.

Commission-
ers to report.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the County Court of Greenup county to name, in any one neighborhood of said county, five fit and proper persons to open books of subscription for the purpose of building any one or more bridges in the county; and it shall be lawful for the men so appointed to open such books, and receive subscriptions for the building of any one or more bridges, to be named in the order of such County Court, and to let the building of such bridge or bridges to the lowest bidder, or otherwise contract for the same; and to take bond with approved security, from the undertaker, for the performance of the work in the manner to be prescribed by such commissioners; and the undertaker may receive the subscriptions so made, or such of them as may be agreed upon by the commissioners so to be appointed, and from said commissioners receive a written transfer thereof, and sue for and collect the same, in his own name as assignee of such bridge commissioners; or suit may be brought by such commissioners in their name, the subscriptions collected by them.

SEC. 2. *Be it further enacted*, That such commissioners shall, once in every year, at the Court of

Claims, lay before the County Court a report of their proceedings, and of the amounts subscribed and expended, and of the contracts for the building of bridges; and such commissioners may at any time be removed by such court, and suit may be brought against them or any one or more of them for any delinquency of duty, in the name of the county of Greenup, and for the use of said county; and all monies recovered by such suit or suits, shall by such county court be appropriated in the building or repairing of some bridge in said county.

1828..

May be removed for delinquency.

SEC. 3. *Be it further enacted*, That upon a report made by such commissioners, the County Court may, for the purpose of aiding in building any of those necessary bridges levy upon the county a sum equal to one fourth of the amount so subscribed by good and solvent subscribers, and shall certify the same to the Auditor of public accounts, who shall thereupon draw his warrant upon the treasury for a sum equal to that levied by said court, in favor of the commissioners or their successors, whose names shall also be certified to him; to be by said commissioners also appropriated to the purposes of building said bridges. *Provided however*, That the whole amount to be drawn in pursuance of this act, shall not exceed five hundred dollars.

County Court may authorize a levy in aid of building bridges.

Duty of the Auditor.

Proviso.

SEC. 4. *Be it further enacted*, That said commissioners, before they proceed to perform their duties under this act, shall, in the County Court of said county, enter into bond, with good and sufficient security, to be approved of by said court, in the penalty of at least three thousand dollars, payable to said county, for the faithful discharge of all their duties as such; and all subscriptions, bonds and other necessary writings, had or made in pursuance of this act, shall be held and taken to be a consideration good and valid in law: the Clerk of the County Court shall do all the duties required by the provisions of this act, without fee therefor.

Commissioners to give bond.

Duties of the Clerk of the County Court

SEC. 5. *And be it further enacted*, That the County Court shall require such bridges as may be built in pursuance of this act, to be erected either on the road leading from the mouth of Big Sandy, by Greensburg and Clarksburg, to Flemingsburg, Maysville and Washington, or on the road leading from Greensburg to Little Sandy licks, or on the road called the turnpike road from Mountsterling and Flemings-

County Court may direct where said bridges shall be erected.

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Proviso.

Court may
appoint differ-
ent boards of
Commission-
ers.

burg to the mouth of Big Sandy, or on the road leading from Greenupsburg to Portsmouth, or on all of them, as shall be thought best. But said court shall not have the right to transfer the money subscribed for any one bridge to the building of another, nor shall said court lay a levy or cause public money to be appropriated to the building of one bridge, on account of monies subscribed to another; and the court shall cause an order to be made and certified to the Auditor, for what particular bridge or bridges the levy is made. And said court may appoint as many different boards of commissioners as they shall think fit; and the levy made and the money to be drawn from the public treasury, shall be apportioned amongst the different companies of bridge commissioners, agreeably to the amount subscribed for any particular bridge in said county. *Provided however,* That the County Court may make any necessary changes in any of said roads, so as to turn them or any one or more of them to the point at which the said court shall consider the most practicable for building any one or more of said bridges, under the same rules and regulations as now prescribed by law, for making a change in any road established by a County Court.

Approved, February 11, 1828.

CHAP. 135.—An act providing for the appointment of an engineer to survey the Kentucky, Licking and Green river.

Preamble.

WHEREAS it appears to the present General Assembly, that a sum of money owned by the State, amounting to nine hundred thousand dollars, nominally, will shortly be redeemed from the pledge given in the charter of the Bank of the Commonwealth, for the ultimate redemption of notes: and it further appearing that no investment can be made of those funds which will be of such general utility, and yield so much lasting and substantial benefit to the good people of this Commonwealth, as by its judicious employment in the improvement of roads and navigable streams within its limits; and not being in the possession of the necessary information as it relates to the plan and to the points at which the improvements ought to be made, and cost thereof; and deeming it of great importance that such information should be procured as will enable the next Legislature to act advisedly

and efficiently on this subject, either by forming companies and taking a portion of the stock in them, or by such other means as may hereafter be thought most expedient: Therefore,

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a temporary board of internal improvements shall be established, consisting of the Governor, Auditor, Treasurer and Register, a majority of whom may act, whose duty it shall be to address a letter to the Secretary of War of the United States, requesting that a suitable person or persons from the Corps of the United States Engineers, be sent to this State, to be employed the ensuing summer and fall in surveying the Kentucky river from its mouth to Boonsborough, Licking river from its mouth to the mouth of Slate creek, and Green river from its mouth to Lyon's warehouse, and to make such examinations of such rivers, by levelling or otherwise, as will enable them to report to the next Legislature, the practicability of improving the navigation of said river, by locks and dams, or by wing dams and schutes, and the probable expense thereof, together with their views, both in relation to those, as well as other improvements they may think proper to suggest, and which in their opinion would be best suited to the streams and the commerce of the country through which they pass.

Temporary board of internal improvements established.

Application to be made to the Secretary at War for an engineer.

SEC. 2. *Be it further enacted*, That if on application, the board shall find they cannot obtain an engineer or engineers from the United States Corps, it shall be the duty of the said board, and they are hereby required and authorized to employ Judge Bates or some other experienced engineer, with two assistants, a surveyor and two or more boatmen, or other hands on each river, who shall be experienced in the navigation of said streams, whose duty it shall be to perform the duties required in the first section of this act.

If an engineer be not obtained from the United States corps, some other person to be appointed.

SEC. 3. *Be it further enacted*, That on filing their report with the board of internal improvement, and their approving of the same, the board may allow to the assistants a sum not exceeding two dollars per day for their services, the surveyor three dollars per day, and the boatmen or other necessary hands, one dollar per day for their services; and the Auditor is hereby directed to issue his warrant on the Treasurer for the same: *Provided however*, That the sum ex-

May employ assistants, &c.

Provido.

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pendent in making the above surveys, shall not exceed three thousand dollars for the full completion of the same.

Approved, February 11, 1828.

CHAP. 136.—An act for the relief of securities in individual contracts.

Security may
sue out an at-
tachment or
ne exeat in
certain cases.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That whenever the principal obligor in any note, bond, bill or obligation, for the payment of money, shall be about to remove himself or his property from this Commonwealth, before he has discharged the amount of such note, bond, bill or obligation, it shall be lawful for the security or securities bound with him therein, to proceed against him by way of attachment in chancery or writ of ne exeat, whether such note, bond, bill or obligation, be due or not due, in the same manner as he or they could proceed if the judgment had been obtained on the same, and he or they had been compelled to pay the amount thereof for the principal.

Security pur-
suing those
remedies to
give bond.

SEC. 2. *Be it further enacted,* That the person or persons pursuing the remedies or either of them, provided by the first section of this act, shall be required to give bond with security for the payment of all damages and costs, as in other cases of injunction or ne exeat; and that the Court of Chancery, before which such proceeding may come for final determination, shall have full power and jurisdiction to hear and determine all matters between the parties affecting or relating to the securityship, and to make such decree as will afford indemnity to the security or securities.

Security may
proceed a-
gainst princi-
pal as an ab-
sent def't.

SEC. 3. *Be it further enacted,* That in cases where any principal obligor in such note, bond, bill or obligation, has departed or shall hereafter depart this Commonwealth, leaving the amount of such note, bond, bill or obligation, or any part thereof unsatisfied, and leaving any property, money, debts, accounts or demands, within this Commonwealth, it shall and may be lawful for the security or securities bound with him therein, to proceed by bill in chancery, against such principal as an absent defendant, to subject his property, money, debts, accounts or demands, within this Commonwealth, as an indemnity against loss on account of his or their securityship,

such note, bond, bill or obligation, not be then due, or should the same be due at or before the final hearing of the suit, to subject the said property, money, debts, accounts or demands, to the satisfaction thereof, in the same manner as if such security or securities had been compelled to pay the amount for his or their principal, by process of law: *Provided however*, That no security shall be entitled to the benefit of the provisions of this act, who shall have received from the principal an indemnity for his undertaking, by mortgage, counter-security or otherwise.

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Proviso.

SEC. 4. *Be it further enacted*, That where the principal in any note, bond, bill or obligation, hath become insolvent or hath departed from this commonwealth, leaving no effects therein, and where one or more of the securities is about to depart from this Commonwealth with his effects, or has actually departed, leaving effects within the same, it shall and may be lawful for the remaining security or securities, if there be any within this Commonwealth, to have the same remedies against them for their respective portions of the amount due or to become due upon such note, bond, bill or obligation, as is allowed in like cases, against the principal obligor by the first, second and third sections of this act.

Security may proceed against each other in the same manner.

SEC. 5. *Be it further enacted*, That in all private contracts, where one or more of the obligors shall have entered into the same as security or securities, it shall and may be lawful for such security or securities or any of them, at any time after a breach of such contract may have actually occurred, to give notice to the obligor or to his executor, assignee, or the agent of either of them actually holding such contract, that if suit shall not be commenced thereon within the space of sixty days from the time of serving the notice, such security or securities so giving notice, will consider himself or themselves exonerated from all liability on account of the breach of such contract: *Provided*, That the notice shall not be deemed sufficient, unless it be in writing, and served by delivering a true copy to the party to be affected thereby, in person.

Security may give the obligee notice to bring suit.

SEC. 6. *Be it further enacted*, That should the holder of such contract, fail to commence suit thereon within the time specified in the notice, provided for in the fifth section of this act, such failure shall operate as a complete extinguishment of all liability on

If the obligee fails to sue, the security shall be released.

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the part of the security or securities so giving notice, for or on account of any breach of the contract which may have occurred previously to the giving of such notice, and which may be therein specified, and may be so pleaded by such security or securities: *Provided however*, That such contract as to all other obligors, except the security or securities so giving notice, and as to all other matters except the breaches specified in such notice, shall remain in the same force and have the same effect as if this act had not been passed.

Applicable to
corporations.

SEC. 7. *Be it further enacted*, That this act shall apply as well to corporations as to individuals, and a notice to such one or more members of the corporation as are authorized in law to sue, shall be sufficient service of notice: *Provided however*, That nothing herein shall be construed to apply to any contract heretofore made.


Approved, February 11, 1828.

CHAP. 137.—An act for the benefit of Joseph Paxton and others.

Lincoln Circuit court authorized to decree the execution of a contract for land.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for Joseph Paxton of Lincoln county, to exhibit his bill in chancery against the infant heirs of William Paxton, deceased, in the Lincoln Circuit Court, setting forth and charging in substance and in apt words, that in the lifetime of said William, they entered into a verbal contract for the exchange of certain parcels of land lying contiguous in said county and belonging to the said Joseph and the said William; that surveys were made of said lands preparatory to the execution of deeds of conveyance, but that no deeds were ever executed in consequence of the death of the said William, which happened shortly after, and praying for specific execution of said contract; and thereupon, the said court shall have full power and authority to make all proper orders for the preparation of said cause, and to hear and determine the same, agreeable to the usages of chancery practice; and if on the hearing of the cause, the court shall be of opinion that the allegations of the bill are fully proven, and that it would be for the interest of said infant heirs that said contract should be specifically executed, the same may be decreed accordingly, at the proper costs and charges of the said Joseph.

SEC. 2. *Be it further enacted*, That it shall and may be lawful for Vincent Hoskins of Washington county, to exhibit his bill in chancery against the infant heirs and representatives of his brother Aquilla Hoskins, deceased, in the Washington Circuit Court, setting forth and charging in substance and in apt words, that in the lifetime of said Aquilla, they entered into a verbal contract for the exchange of certain lots lying and being in the town of Lebanon in said county, and that the exchange actually took place, whereupon the said Vincent made large and extensive improvements on the lot so exchanged, but that no deeds or other conveyances were ever made, in consequence of the subsequent death of the said Aquilla, and praying for a specific execution of said contract: And thereupon, the said court shall have full power and authority to make all proper orders for the preparation of said cause, and to hear and determine the same agreeable to the usages of chancery practice: and if, on the hearing of the cause, the court shall be of opinion that the allegations of the bill are fully proven, and that it would be for the interest of said infant heirs that said contract should be specifically executed, the same may be decreed accordingly, at the proper costs and charges of the said Vincent Hoskins.

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 Washington Circuit Court to have the same power for the benefit of Hoskins' heirs.

Approved, February 11, 1828.

CHAP. 138.—An act to regulate civil proceedings against certain communities having property in common.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for any person having any demand exceeding the sum of fifty dollars, founded on any contract implied or expressed against any of the communities of people commonly called shakers, living together, and holding their property in common, to commence and prosecute suits, obtain decrees, and have execution against any such community, by the name or description by which said community is commonly known, without naming or designating the individuals of such community, or serving process on them, except as is hereinafter directed. All such suits shall be by bill in chancery, in the Circuit Court of the county in which such community reside: and it shall and may be lawful to make parties to such suits, all

Society of Shakers may be sued by that name by bill in chancery without naming each individual of the society.

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other persons by name who may have any interest in the matter in controversy, or who may hold any property in trust for said community, or may be indebted to them.

How the sub-
pœna in chan-
cery is to be
executed.

SEC. 2. Whenever any subpœna founded on any such bill, shall be placed in the hands of any officer to execute, he shall fix a copy of such subpœna on the door of the meeting-house of such community, shall deliver a copy to some known member of the community, and shall read the subpœna aloud at some one of the dwellings of said community, at least ten days before the term of the court at which said community are required to answer; and on these facts being returned in substance on the subpœna, they shall constitute a good service of process on said community, so as to authorize the court to require and compel an answer agreeable to the rules and usages in chancery.

How the bill
may be an-
swered and
suit defended.

SEC. 3. All answers for and in behalf of such community, may be filed on the oath or affirmation of one or more individuals of such community, who shall moreover swear or affirm, that he or they have been nominated as the agents or attorneys of such community to defend such suit; and thereupon the individual so answering shall have full power and authority to manage and conduct said suit on the part of such community, or to settle and adjust the same: and all notices to take depositions against said community, may be served on such agent or left at their place of residence. *Provided*, that for good cause shewn, the court may at any time permit such agents to be changed or substituted by others of the community: *Provided however*, that the agents or defendants shall not be compelled to answer on oath, to any charges or allegations which are by the existing rules of law and equity, cognizable alone in the courts of common law: *And provided further*, that in all such cases as mentioned in the foregoing proviso, the defendants shall be entitled to a jury, if they, or any one of them, shall signify their desire to that effect at any time before the trial shall have been gone into: and in such cases as above described, either party may require the personal attendance of witnesses and a viva voce examination, as though the suit were at common law; and the court shall direct such process at the request of either party, or summonses may issue as in other cases of the kind.

Proviso.

Defendant to
be entitled to
a trial by jury

SEC. 4. *Be it further enacted,* That nothing in this act contained shall be so construed as to render the communities aforesaid, or any of them, liable upon contracts entered into by any individual or individuals, not authorized by their laws and usages to contract for such community; nor shall it be so construed as to give to any person who, having been a member of any such community, has heretofore left it, or may hereafter leave it, any right, in consequence of such membership, which he or she would not have had if this act had not passed; but such right shall depend upon and be determined by the laws, covenants and usages of such society and the general laws of the land, except as to the mode of suit.

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Society not to be answerable for contracts in certain cases.

Persons leaving the society to have no new rights under this law.

SEC. 5. *Be it further enacted,* That any community which may be sued under the provisions of this act, shall have the same right to a change of venue as other defendants.

Venue may be changed as in other cases.

Approved, February 11, 1828.

CHAP. 139.—An act for the benefit of Augustin Clayton.

WHEREAS, it is represented to the present General Assembly, that Augustin Clayton, of Warren county, paid eight dollars seventy cents into the treasury, being the first installment on a Barren County Court certificate, No. 301, and that by some mistake, the credit was never entered on the Auditor's books, whereby the said Clayton was again compelled to pay in full: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office be, and he is hereby directed to issue a land warrant in favor of the said Clayton, covering the amount aforesaid, to be laid on any waste and unappropriated land of this Commonwealth east of the Cumberland river.

Approved, February 11, 1828.

CHAP. 140.—An act to authorize the County Court of Wayne to appropriate certain lands for the purpose of opening a road through parts of Wayne and Whitley counties.

WHEREAS, by an act of the General Assembly of the Commonwealth of Kentucky, passed the 25th of January, 1827, the County Court of Wayne county was authorized to locate, survey, patent and sell three

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thousand acres of the vacant land within the said county of Wayne, or between Walker's line and the latitude of thirty-six degrees thirty minutes north, in the State of Tennessee, east of the Cumberland river, for the purpose of opening a road leading through the mountains, from the little south fork of Cumberland river, by Jonathan Blevins', to intersect the Goose creek salt works road, at Marsh creek; and whereas the said three thousand acres of land granted as aforesaid, has been located and sold, and the proceeds, amounting to about one hundred and seventy dollars, has been appropriated on said road, which has been completed and made a good wagon road for nearly one half the way: the balance remains unopened, for want of funds; and what has been done must be lost, without a further appropriation in land is made, as it passes through a country almost entirely uninhabited: Therefore,

Register to issue land warrants to the county of Wayne.

Where to be surveyed.

Court may sell and convey said land and appropriate the money to the road.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the land office be and he is hereby authorized and required to issue land warrants in the name of the said County Court of Wayne, without fee therefor, for four thousand acres, to be appropriated within the said county of Wayne, or in the territory between Walker's line and the latitude thirty-six degrees thirty minutes north, in the State of Tennessee, east of Cumberland river, or between the big south fork of Cumberland river and Marsh creek, in Whitley county, through which said road passes.

Be it further enacted, That the said County Court of Wayne is hereby authorized to locate, survey, patent and sell four thousand acres of the vacant lands within the bounds aforesaid, and apply the proceeds or money arising from the sales thereof to the opening and completing said road according to law, and the Register of the land office is required to issue patents therefor, without fee.

Approved, February 11, 1828.

CHAP 141.—An act to amend an act entitled "an act to incorporate the Lexington and Frankfort Turnpike or Rail Road Company."

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the fourth sec-

tion of the before recited act as requires fifteen hundred shares to be subscribed, before the commissioners can call a meeting of the stockholders to appoint officers, &c. shall be and the same is hereby repealed; and that as soon as five hundred shares are subscribed, the commissioners may proceed to give notice to the stockholders as directed in the before recited act.

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Approved, February 12, 1828.

CHAP. 142.—An act for the benefit of Sidney P. Clay and wife.

WHEREAS, it is represented to the General Assembly, that Isabella E. I. Clay, wife of Sidney P. Clay, is an infant under the age of twenty-one years, and there has descended to her from her father, John Reed, now deceased, two small tracts of land, which lie in the county of Washington, adjacent to the town of Springfield, and is part of the tract on which said Reed resided, the improvements on which are of a perishable nature, which said land has been allotted to her by commissioners appointed by the Washington Circuit Court; and whereas, said Clay and wife, by residing at a distance from said land, are unable to use or derive but a very small benefit from said land, or protect it from trespass, to which it is so much exposed by its vicinity to the said town of Springfield; and whereas, it will redound much to the advantage of said Clay and wife, to sell said land: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That said Isabella E. I. Clay, wife of said Sidney P. Clay, be, and she is hereby made able and competent in law to convey said described pieces of land, under the same rules and regulations that femes coverts of full age can now convey, who are the holders of the fee simple title to land under the laws now in force.

Wife of said Clay made competent to sell and convey land.

SEC. 2. *Be it further enacted,* That any deed which shall be made by said Clay and his wife, for the land aforesaid, under the provisions of this act, shall be good and valid in law, to pass the title to the grantee or grantees in said deed, as if the said Isabella E. I. had attained the full age of twenty-one years.

Deed to be valid,

Approved, February 12, 1828.

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CHAP. 143.—A act to amend and reduce into one the execution laws of this State.

Writs of *fifa*
or *eligit* may
issue.

By whom to
bear teste,
and when re-
turnable.

How execu-
tions may is-
sue from the
Court of Ap-
peals.

Form of *fifa*
in debt.

In case.

In tort.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all persons recovering any debt, damages or costs, by the judgment of any court of record within this Commonwealth, may prosecute writs of *Fieri facias* or *Eligit*, within the year, for taking the estate of the person or persons against whom such judgment is obtained, in manner following: Such writs shall run in the name of the Commonwealth of Kentucky, and bear teste by the Clerks of the respective courts in which such judgment shall have been rendered, and shall be returnable to any of the rule days of the said courts, so that there be at least thirty and not more than ninety days, between the teste and return of such writ: *Provided*, That executions may issue from the Court of Appeals, returnable in the same manner as directed by the act entitled, "an act establishing the Court of Appeals," and the other acts amendatory thereto. The forms of the several writs of execution shall be substantially as follows, to-wit: A *fieri facias* in debt "The Commonwealth of Kentucky, to the sheriff of county greeting, we command you that of the estate of A. B. late of your bailiwick, you cause to be made the sum of \$, which C. D. late in our court, hath recovered against him for debt, also the sum of \$ which to the said C. D. in the same court were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted as appears to us of record, and that you have the said sums of money before the Judge or Justices, (as the case may be,) of our said court, on the day of to render to the said C. D. his debt, damages and costs, aforesaid, and have then there this writ: Witness," &c. The same in case upon a promise as before, with this variation—"for his damages which he hath sustained, as well by reason of his not performing a certain promise and assumption to the said C. D. by the said A. B. lately made, as also \$, for his costs by him, about his suit, in this behalf expended." The same in tort as before; "unto for his damages which he hath sustained, by occasion of a certain trespass by the said A. B. to the said C. D. offered and done, as for his costs by him, about his suit in this behalf expended." If for de-

pendant, say "for his costs about his defence in a certain action, at the suit of said, &c. in covenant or debt, &c. (as the case may be,) in this behalf expended." The form of a writ of *Eligit*—"The Commonwealth of Kentucky, to, &c. greeting: Whereas A. B. at our court, &c. before our Judge or Justices, (as the case may be,) held at the court house of

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Writ of eligi.

on the day of , hath recovered against C. D. the sum of \$, which to the said plaintiff was adjudged, for his debt or damages—as before. And the said A. B. hath chosen to have delivered to him, all the goods and chattels of the said C. D. saving only the goods and chattels which by the statutes of this Commonwealth, are exempted from execution, and also one moiety of all his lands and tenements in your bailiwick, to have, and to hold the goods and chattels aforesaid, as his own proper goods, and the said moiety as his freehold to him and his assigns, until he shall have levied the debt and damages aforesaid: Therefore, we command you, that you cause to be delivered, all the goods and chattels of the said C. D. saving the property so exempted from execution, and also one moiety of all his lands and tenements in your bailiwick, whereof, he, at the day that this writ shall come to your hands, or at any time afterwards, was seized, by reasonable price and extent, to have and to hold the said goods and chattels, to him the said A. B. as his own proper goods and chattels, and the said moiety as his freehold, to him and to his assigns, until he shall have levied thereof, the debt, damages and costs, aforesaid, and that you certify to our said Judge or Justices, under your seal and the seals of those by whose oath you shall make this extent, how you have executed this writ, the day of , at the court house of our said county, and have then there this writ: Witness," &c. A *Capias ad satisfaciendum*—"The Commonwealth, &c. greeting, we command you, that you take A. B. late of your bailiwick, if within the same he be found, and him safely keep, so that you have his body before our Judge or Justices of our court, &c. the day of , to satisfy C. D. the sum of \$, which the said plaintiff hath recovered against him for debt (or damages, as the case may be,) also," &c. as before in the writ of *fieri facias*; which said writs, so issued, shall be executed by the sheriff or other officer to whom the same

Ca. sa.

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Form of returns,

Fi fa executed.

Part made.

Not sold for want of bidders.

Jury summoned to try the right of property.

Form of verdict, &c.

Return of the eligit.

Schedule and value of the goods taken.

shall be directed, and shall be returned according to the substance of the respective forms hereafter mentioned, to-wit: The return of a fieri facias "satisfied;" or "by virtue of the within writ, I have caused to be made, the sum of \$, which, after deducting my commission thereon, entitles this execution to a credit of \$, and no more property found of which the residue or any part thereof can at present be made;" or, "levied by me on , of the supposed fair value of \$, and on the day of , at I exposed the same to sale, but the said property was not sold for want of bidders;" or "levied by me on , of the supposed value of , and A. B. claimed the said property to be his, and demanded that his claim should be inquired into by a jury, which was accordingly summoned, and on the day of , at the house of , enpannelled and sworn according to law, who thereupon found, that the said property was the property of the said A. B. and the same was restored to him, and no estate of the said C. D. found by me, of which the said debt or damages, &c. or any part thereof could be made;" or "the within named A. B. hath no estate within my bailiwick, of which the debt or damages, &c. mentioned in this writ, or any part thereof can be made." Return of writ of eligit—"Inquisition, indented and taken at . . ., in the county of on the day of , in the year of our Lord, 18 , before me, E. F. sheriff (or coroner,) of the county aforesaid, by virtue of a writ of eligit to me directed, and to this inquisition annexed, and by the oath of A. B. C. &c. good and lawful men of my bailiwick, who being charged and sworn, upon their oath do say, that A. B. who is named in the writ of inquisition hereto annexed, was at the time this writ came to the hands of the officer to be executed, and at the time of taking this inquisition, is possessed of the goods and chattels following, as of his own proper goods, to-wit: (here make out a schedule of the goods, with the value of each item, and the aggregate value,) which I, the said Sheriff, have caused to be delivered to the said C. D. to hold to him as his own proper goods and chattels, in part satisfaction of his debt or damages, &c. aforesaid, in the said writ mentioned, which, after deducting my commission, entitles this execution to a credit of \$, and further, the said jurors upon their oath do say, that

the said A. B. at the time the said writ came to the hands of the officer as aforesaid, was seized, and since has acquired of his own demesne, as of fee of and in (here name the houses and lands, town lots or other landed estate,) with the appurtenances of the annual nett value of \$, acres of which or thereabout, are a true and equal moiety of all and singular, the said lands, tenements or heriditaments aforesaid, belonging to the said A. B. in the county aforesaid, which said moiety, I, the said sheriff, on the day and year aforesaid, to the said C. D. in the said writ named, at a reasonable extent of the yearly value of \$, have delivered, to hold to him and his assigns, according to law, until he shall have levied the residue of the debt or damages, &c. aforesaid, as the writ aforesaid requires; and further, the said jurors upon their oaths do say, that the said A. B. at the time, &c. aforesaid, had not, nor at the time of taking this inquisition, hath any other or more goods or chattels, lands or tenements, in the county aforesaid, to the knowledge of the jurors aforesaid: In testimony whereof, as well, I, the said sheriff (or coroner,) as the jurors aforesaid, to this inquisition, have severally signed (or caused to be signed) our names, and put our seals, the day, year and place, above mentioned." Return of a capias ad satisfaciendum—"By virtue of this writ, to me directed, I have taken the within named A. B. and delivered him to the jailor of my county, agreeably to the tenor and command of the within writ, on the day of ;" or "the within named A. B. is not found within my bailiwick."

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Of ca. executed.

Not executed

SEC. 2. After obtaining final decree for lands, slaves, money or other specific thing, in any court having chancery jurisdiction, the Clerk of said court, shall, upon the request of the party obtaining such decree or his attorney, issue any writ of execution which would be appropriate, and is allowable upon a judgment of a court of law, according to the nature of the case, for carrying the decree into effect; which writ shall issue in the same manner as other writs of execution, be returnable within the same time, executed by the sheriff or other proper officer, under the like penalties, and in every thing partake of the nature and effect of like writs issued upon judgments at law, and subject to the same power of the court. But nothing in this act contained,

How executions to issue on decrees in chancery.

How executed.

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shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner which he might have done if this clause or section had never been enacted.

A second execution may issue at the pl'tfs. cost, if the first is not returned executed.

Upon the return of a *fi fa*, no property, other appropriate writs may issue.

Proceedings in case a tenant by *eligit* is evicted.

When lands may have been omitted out of the extent, judgment not to be void.

Remedy for contribution saved.

SEC. 3. When any writ of execution shall issue, and the party at whose suit the same issued, shall afterwards desire to take out another writ of execution, at his own proper costs and charges, the Clerk may issue the same, if the first be not returned and executed: and where upon a *fi fa*, the proper officer shall return in effect, that the party defendant hath no goods, or not sufficient to satisfy the said execution, the Clerk shall issue another *fi fa*, or other appropriate writ which may be allowed by law, upon the request of the party, plaintiff or his attorney; and where part of the debt shall be levied upon an *elegit*, or a return thereon of *ni hil*, a new *elegit* may issue for the residue, or any other appropriate writ allowed by law; and where one judgment is obtained against several defendants, execution shall issue thereon, as if it were against one defendant, and not otherwise.

SEC. 4. If a tenant by *elegit* be evicted of his title in the lands, tenements or hereditaments, which he holds by virtue of any extent thereof, by judgment had against him otherwise than by his own fraud or default, before satisfaction shall be made him for his debt, or damages and costs, he shall and may have a writ of *scire facias* against the debtor, his heirs, executors or administrators, to have execution for the residue of his debt, or damages and costs, as shall appear to remain unpaid, with proper interest thereon, and may have his writ of *fieri facias*, or other appropriate writ for such residue, as though no execution had been theretofore issued; and this proceeding may be had, when any assignee of the original plaintiff, either immediate or remote, or any representative or other person, holding under the original party, plaintiff, as tenant by *elegit* shall have been evicted.

SEC. 5. Where any Judgment or recognizance shall be extended, the same shall not be avoided or delayed, by occasion that any part of the lands or tenements extendable, are, or shall be omitted out of the extent.

SEC. 6. Saving always to the party and parties, whose lands shall have been extended, his and their representatives or assignees, his or their remedy for contribution, against such person or persons as held

lands, which are, or shall be omitted out of such extent, from time to time.

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SEC. 7. *Provided however*, That this act, or any thing herein contained, shall not be construed to give any extent or contribution, against any heir within the age of twenty-one years, during the minority of such heir, for, or in respect of any lands, descended to him or her, further or otherwise than might have been made before the passage of this act.

Not to extend to heirs.

SEC. 8. No writ of *fieri facias*, or other writ of execution, shall bind the estate of the defendant or defendants, but from the time such writ shall be delivered to the sheriff or other proper officer to be executed, and for the better manifestation of said time, such sheriff or other officer, or his deputy, upon the receipt of any such writ, shall endorse thereon the day of the month, time of day and year when the same was received by him; and if two or more writs of execution, in favor of different parties, against the same person, shall be delivered to the officer upon the same or different days, that which came first to his hands shall be first satisfied; and where two or more writs against the same person, shall come to hand at the same time, the sheriff or other officer shall proceed to levy and sell in virtue of all; and if the proceeds shall not be adequate to the satisfaction of all, the officer shall apportion the amount made amongst the several executions according to their respective amounts, and credit the same accordingly, first deducting his commission as in other cases.

Estate bound from the delivery of the writ.

Time of reception to be endorsed thereon.

First execution to be first satisfied.

When several executions come to hand at the same time, the amt. made to be apportioned.

SEC. 9. If any person being in prison, in virtue of a *capias ad satisfaciendum*, shall happen to die in execution, the parties at whose suit, or to whom any person shall stand charged in execution for any debt or damages, recovered, his or their executors or administrators, may (after the death of the person so dying in execution,) lawfully sue forth and have execution against the lands, goods and chattels, of the person so deceased: *Provided always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such person shall die in execution, to have or take a new execution against the lands, tenements or hereditaments, goods or chattels, of such party dying in execution, which shall at any time after the coming of the original execution, to the hands of the sheriff or

Where a party dies in execution on a *capias*, executors may afterwards issue against his estate.

Proviso.

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other proper officer, have been by such debtor sold *bona fide* for the payment of any of his creditors, at whose suit he shall have been in execution, and the money paid, or secured to be paid to such creditor with his privity and consent, in discharge of his or their debts, or some part thereof.

In what cases a venditioni exponas may issue.

SEC. 10. If the goods taken by the Sheriff or other officer, in virtue of any execution or any part thereof, shall remain in his hands unsold, he shall make return thereof accordingly, and the Clerk of that court from whence the original execution issued, may, and he is hereby required to issue a writ of *venditioni exponas* to such sheriff or other officer, directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution: *Provided however*, that the officer may at any time before he returns the original execution, sell any property taken by him in virtue of said execution, if the same shall have been levied before the expiration of the return day of the same, notwithstanding such return day may have expired before the day of sale. The form of the *venditioni exponas* shall be in substance as follows: "The Commonwealth of Kentucky to the Sheriff of county, greeting: We command you that you expose to sale the estate of A. B. to the value of dollars, which according to our command you have taken into your hands, and which remains in your hands unsold, as you have certified to our Judge, (or Justices,) of our Court, to satisfy C. D. the sum of dollars, whereof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court, and that you have, &c."

Officer may sell property after the return day, if the writ was levied before.

Form of venditioni exponas.

Officer to provide for live stock taken in execution.

To be allowed therefor, and amount to be taxed in the costs.

SEC. 11. Where any Sheriff or other officer shall serve an attachment or any writ of execution on any live stock, and the same shall not be immediately replevied and restored to the debtor, it shall and may be lawful for the Sheriff or other officer, and he is required hereby to provide sufficient sustenance for the support of such live stock, until the same shall be sold or otherwise legally discharged from such attachment or writ of execution; and upon the trial of the attachment, or return of execution, the court before whom such attachment or execution shall be returned, may and shall, upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses, incurred by

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supporting such stock, to be taxed in the bill of costs against the party against whom judgment shall be given on such attachment; and the same shall be retained by the officer out of the money arising from the sale of such stock; and the officer may retain the expense for supporting such stock, taken by execution as aforesaid, out of the money arising from the sale, to be settled in the manner aforesaid; and where the plaintiff in any attachment shall be cast, the expenses aforesaid shall be taxed in the bill of costs against such plaintiff; for which the defendant may take execution with the other costs, and shall be liable to the officer for the same, collectable as his other fees. And where any execution shall have been levied upon live stock, and expenses incurred in keeping the same, and the execution shall afterwards be quashed or superseded, the allowance shall be made as before, and the Sheriff may issue his fee bill for the same, and it shall form costs, if the same shall afterwards accrue to the party paying it: and in all cases the officer who provides for keeping stock shall make a fair estimate of the expenses for keeping the stock, and shall collect the same as part of the costs, subject to the correction of the court; and where the estimate shall be considered by the court too high, such court shall order a return of that excess to the party entitled to the same, with not less than twenty five nor more than fifty per centum thereon.

Costs of keeping to be retained by the officer.

Mode of proceeding when the execution is quashed or superseded.

Court may correct the am't charged.

SEC. 12. No goods or chattels whatsoever lying or being in or upon any messuage, lands or tenements, which or shall be leased for life or lives, term of years, at will or otherwise, and where the rent is reserved and made payable in money, shall at any time hereafter be liable to be taken by virtue of a writ of execution, attachment or other process, unless the party so taking the same shall, before the removal of such goods from off the demised premises, pay or tender to the landlord, if he reside within that county, or to his agent, if any known agent he have resident within the same county, all the money due for the rent of the said premises, at the taking of such goods or chattels in execution, &c. *Provided nevertheless*, that such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, may pay or tender to such landlord or his agent, one year's rent, and may proceed to execute his judgment or levy his attachment, if

Estate on rented land not to be taken until the rent is paid.

Provided one year's rent only is due.

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the proceedings be by attachment; and the Sheriff or other officer serving the same, is hereby required and empowered to levy as well the money so paid for rent as the execution money, and pay the same over to the plaintiff.

Lands and
slaves to be
sold at the
court-house.

Sec. 13. When any Sheriff, Constable or other officer, shall take the slaves of any person whatsoever by virtue of any writ of *feri facias*, or when any Sheriff or other officer shall levy such *feri facias* upon the lands of any defendant, and the owner of such slaves or lands, or some person for him, shall not, on or before the first day set a part by law for the sitting of the next ensuing Circuit or County Court in that county in which such levy is made, satisfy the party suing out such writ, his debt or damages and costs, or replevy the same, such Sheriff or other officer shall sell, by public auction, in the court-yard of the said county, the slaves or lands so levied upon, or so many of said slaves or so much of said land as will pay and satisfy the said execution, officer's commission, &c. for the best price that can be had: *Provided*, that such officer shall have previously advertised, at least at three public places in his county, the nature of the property levied upon, and the time of such sale; and where such advertisement shall not have been made for ten days, then such sale shall not be made till the next succeeding court day, unless both the plaintiff and defendant shall consent in writing, that a sale be made on the first court day after the levy made. And where any officer shall delay in advertising the property taken by him, beyond a reasonable time after making such levy, he shall, upon the motion of either the plaintiff or defendant, in the County Court, if a Constable, and in the Circuit Court if any other officer, be fined by such court, not less than five nor more than twenty dollars, with costs, to the use of the party making such motion, having given such officer at least three days previous notice of such intended motion; and the officer shall moreover be liable to the suit of the party aggrieved, for any and all damages sustained by reason of such failure or delay: *Provided*, that the court before whom the motion for the fine above mentioned is made, may, for good cause shewn by either party, continue the same as in other cases: *and provided*, that if the party making the motion shall be cast, he shall pay the costs. All other property taken

Time of sale
to be adver-
tised.

Unless the
parties dis-
pense with it.

If the officer
delays adver-
tising he may
be fined.

And liable to
suit.

Proceeding
may be con-
tinued.

In virtue of any execution, shall be advertised for sale not less than ten days, nor more than fifteen days, before the same is sold, at, at least three public places in the county in which the levy is made; and the officer failing herein shall be liable as provided for in this section; and the sale thereof shall not take place until twenty days after said levy: *provided further*, that the following property shall be exempt from execution: one work beast or yoke of oxen, one plough and geer, one axe, one hoe, one cow and calf, one bed and furniture, one loom, spinning wheels and cards for the same, all the spun yarn and manufactured cloth necessary for the use of the family, one pot, one oven; and to a mechanic his tools, not exceeding the value of one hundred dollars: *Provided however*, that the work beast of any mechanic who claims the exemption of his tools under the provisions of this act, shall be liable to execution and distress as heretofore; and that the provisions of this act shall not be construed to extend to any but actual bona fide house-keepers, with a family. Nothing in this act shall prevent the said property from being liable to the payment of the revenue tax and county levy.

SEC. 14. If the owner of any goods or chattels taken in virtue of any execution, shall give sufficient security to the Sheriff, Constable or other officer taking the same, to have the same goods or chattels forthcoming, at the time and place of sale, it shall be lawful for such Sheriff, Constable or other officer, having made out a schedule of such property, on the back of said execution, or on some paper annexed thereto, and having below such schedule stated the time and place of sale, to take the acknowledgment of the owner and his security or securities, that they stand bound for the delivery of said property, in substance as follows, to-wit: "I, (or we, &c." as the case may be,) principal, and "I or we," as his security or securities, do bind ourselves that the property mentioned in the foregoing schedule, shall be forthcoming at on the day of next, by the hour of twelve o'clock in the day. Witness our hands." Which acknowledgment shall be signed by the parties thereto, and attested by the officer taking the same: and thereupon the officer shall restore to the defendant the goods and chattels so taken in execution, and shall permit the same to remain with him or her at his or her own risk and expense, until the day

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Mode of advertising other property than land or slaves.

What property shall be exempt from execution.

Proviso.

To extend to none but housekeepers.

Forthcoming bond may be taken.

Schedule of property.

Form of the bond.

1828.

If the property is not delivered the officer to return the fact.

Execution may issue thereon.

If the officer fail to make return, he shall be liable on motion.

Slaves not to be taken if other property can be had.

stipulated for the delivery thereof; and if such debtor shall fail to deliver up the same goods and chattels, or other goods and chattles, which, when sold by the officer, shall fully satisfy and pay the said debt, (or damages,) interest, costs and commission; and also fail to pay the same, the officer holding such execution shall return the fact of such failure, with the acknowledgment of the principal and security aforesaid, to the office from whence the execution emanated; and such written acknowledgment shall in all respects have the force of a judgment; and the Clerk or Justice of the Peace, shall, upon the application of the party, plaintiff, or his attorney, issue execution upon the written acknowledgment aforesaid, against the said principal debtor, and his security or securities, for the amount of principal, interest and costs of the original judgment, and all costs that since accrued, and shall endorse thereon that "no security of any kind shall be taken;" which endorsement shall be considered as forming part of the said execution, and the officer shall be bound by it accordingly; and in all cases where the judgment shall not before have borne interest, the same shall accrue from the date of such acknowledgment, and the Clerk of the court or Justice of the Peace shall set forth in the execution, the time from whence interest shall accrue, until paid. And if any officer shall neglect for the space of twenty days after a failure by any person or persons to deliver property according to his or their undertaking, in pursuance of the provisions of this section, to make the return provided for, he or his securities, or both, shall be liable, upon motion before the proper tribunal, for the whole amount of such execution, including costs, and ten per centum damages thereon, having received ten days previous notice of such intended motion.

SEC. 15. No Sheriff, Constable or other officer, shall take in execution, any slave or slaves, provided there be shewn to such officer by the defendant, or any other person, on his behalf, sufficient goods or chattels of such defendant, upon which he may levy the debt and costs mentioned in such *fiery facias*; and no Collector of any officer's fees, or of the public revenue, or county levies, shall seize or make distress upon the slave or slaves of any person for such fees, taxes or levies, if other sufficient distress can be had; and no Sheriff or other officer, or Collector of fees,

taxes or levies, shall make or take unreasonable seizures or distress; and if any Sheriff or other officer or Collector as aforesaid, shall act contrary hereunto, he shall be liable to the action of the party aggrieved, grounded upon this act.

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Officers liable for unreasonable distress.

SEC. 16. Any defendant or defendants in a *stet* *facias*, may at any time before the sale of his property, in virtue thereof, or if it be a *ca sa* then at any time after its emanation replevy the same for the space of three months, by tendering to the officer holding the same, good and sufficient security, to be bound with him to pay the amount of such execution, including the interest (if any,) up to that time, and costs, in which shall be taken and estimated, the officers' half commission as now allowed by law, the expenses of imprisonment, if any has accrued, and all other legal costs, with interest on the aggregate amount of the same, from the time of such replevy until paid: Which bond may be to the following effect—"We, A. B. principal and E. F. security, do bind ourselves, three months after the date hereof, to pay C. D. (the plaintiff in execution,) the sum of dollars

Defendant may replevy in certain cases.

All costs and interest to be included in the bond.

Form thereof.

cents, being the amount of principal, interest and costs, of an execution which issued from the Clerk's office of the Circuit Court, (or County Courts) of , or the office of G. H. a Justice of the Peace, in and for county, (as the case may be,) on the day of , in favor of the said C. D. for the sum of \$, debt or damages, \$, interest, \$, costs of suit, \$, Jailors fees, \$, Sheriffs or Constables half commission, amounting in the whole to the sum of \$, aforesaid, against the said A. B. and we, the said A. B. and E. F. his security, have hereby replevied the same: Witness our hands this day of ," which bond shall be signed by the principal and security or securities, and attested by the officer taking the same, and shall by the officer taking the same be returned to the office from whence it issued with the execution, in virtue of which it was taken, and after the same shall fall due, the proper officer shall, at the request of the plaintiff or his attorney, issue execution thereon in all respects as on a judgment, and such bond shall have the force of a judgment, and be taken and treated as such, and any execution that may issue thereon, shall not be replevied or stayed, and the Clerk or Justice shall endorse thereon that "no security of any kind is to be

Executions may issue thereon.

How to be endorsed.

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Officers, attorneys and agents, not entitled to replevy judgments against them.

taken." *Provided always*, That nothing in this section of this act contained, shall be construed to extend to any execution upon a judgment against a sheriff, constable, coroner or other collecting officer, for a delinquency or default, in executing or fulfilling the duties of his office, in any point of view whatever; or upon any judgment against an attorney at law or other collecting agent, for money received by him for his client or principal, or against a principal by his security; but such execution shall be proceeded upon immediately, and the money made, and for the better information of the officer, the Clerk or Justice of the Peace issuing such execution, shall endorse thereon the cause for which such judgment was rendered, and also, that "no security of any kind is to be taken."

Where bonds are quashed, new executions may issue.

SEC. 17. If a replevy or forthcoming bond, be at any time quashed as faulty, the obligee or obligees in such bond (besides their remedy against the officer,) may have execution on his or their judgment, in the same manner as is if such replevy or forthcoming bond had never been taken.

Sale of property under execution subject to replevin, to be on a credit.

SEC. 18. Where execution of *fi fa* shall issue, and the defendant, by the provisions of this act, shall be entitled to replevy the same, but shall fail to do so, and a sale of property shall be made in virtue of it, the officer making the sale, shall sell the property at a credit of three months, and shall take bond and approved good security of the purchaser, for the payment of the purchase money of the articles so sold, which may be to the following effect—"I, A. B. principal, and I, C. D. as security, do bind ourselves to pay to E. F. within three months after the date hereof, the sum of dollars cents, with interest thereon from this date, being the purchase money for (here set out the several items of the property so purchased by him, with the price of each,) which was this day sold by G. H. sheriff (or constable, &c. as the case may be,) of county, in satisfaction of an execution which issued from the office of the Clerk of the Circuit Court, (or K. L. a Justice of the Peace for county, as the case may be,) on the day of , in favor of the said E. F. against M. O. for the sum of \$, debt or damages, with interest and costs, Given under our hands this day of ."

Which bond shall be signed by the purchaser and his security or securities, and attested by the officer, and by him be returned to that office

Purchasers to give bond; the form thereof.

Sale Bond

To be returned to office.

from whence it issued, with the execution, and shall in all respects have the force of a judgment, upon which execution shall issue as on other judgments, at the request of the plaintiff or his attorney, after the time limited therein for the payment of the money shall have expired, and upon such execution, the Clerk or Justice of the Peace shall endorse that "no security of any kind is to be taken," which shall be obeyed by the officer accordingly. And where any property sold in virtue of an execution, shall command more than the amount of such execution, including all costs, the officer shall, if the sale was made for ready money, forthwith pay over, upon demand made, to the defendant owner of such property, the excess for which it sold; and if such sale shall have been made on a credit as directed by this act, then the officer making such sale shall take a bond for the excess, payable to the defendant owner, instead of the plaintiff; which may be of the form of the bond to the plaintiff, with the proper variation to suit the case; and this bond shall also have the force of a judgment, on which execution may issue as on other judgments, and on which a similar endorsement shall be made as on other executions, where no security is to be taken.

SEC. 19. If the plaintiff in any bond, having the force of a judgment, shall at any time for the space of twelve months, after execution is due him, fail *bona fide*, with a view to the collection of his debt, to issue such execution, the security on such bond shall stand and be released from all liability as such security, and the Clerk or Justice of the Peace, shall endorse on the execution, the name of the security, and that he stands released by law, because of the failure of the plaintiff to sue out such execution, within twelve months after the same was due; and any security may at any time whatever, after an execution on any of the bonds aforesaid shall become due, notify the plaintiff, his agent or attorney, that he will no longer stand bound as security in such bond; and if the plaintiff, his agent or attorney, shall fail for the space of thirty days after the service of such notice, to demand execution, and in good faith proceed to the collection of such debt, such security so giving notice, shall stand absolved from all liability, by reason of his said undertaking; but the service of the notices herein provided for, must be by delivery to the per-

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And have the force of a judgment.

Where on a sale the amt't shall exceed the debt, the surplus shall be paid to the debtor, if for ready money; if not, a bond to be taken.

And to have the force of a judgment.

Security in a replevin bond to stand released in 12 months if the plaintiff does not proceed thereon.

A security may notify the plaintiff in the bond, that he will no longer be bound.

And he shall be released if the plaintiff fails in thirty days after notice to issue execution.

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The release to be certified on the execution.

Such endorsements may be corrected by the court.

Broussé.

Executions may issue to any county under certain restrictions.

Execution must first issue to the c'ty where the defendant resides.

Form of the returns.

If the defendant absconds, &c. execution may be taken to another county in the first instance.

An affidavit to be filed.

son of the plaintiff, his agent or attorney, and not by leaving a copy in the absence of such person. The security having caused the notice to be served as aforesaid, shall file the same with the return of the officer thereon, in the office from whence the execution issued, and the officer shall endorse on any execution that may thereafter issue on such bond, the name of such security, and that he is not further liable to the satisfaction of the said execution, because of the failure of the plaintiff to sue out execution in due time, as appears by notice filed; nevertheless, all such endorsements shall be liable to quash, for being improperly made contrary to the spirit and meaning of this act. *Provided however,* That this section of the act shall not apply to bonds therein mentioned, which shall have been entered into before this act shall take effect, nor to any case in which proceedings are stayed by injunction or supersedeas, during the continuance of such restraint.

Sec. 20. Executions may issue to any county within the State, directed to the proper officer, and shall be by such officer duly executed and returned, but no execution shall issue to any other county than that in which the judgment was had, or that in which the defendant may reside, except in cases hereafter provided, until after a writ of *fi fa* shall have been returned by the proper officer of that county in which the defendant resides, if he have any known place of residence, that "he has demanded satisfaction of A. B. the defendant in this execution, and he failed to render the same, and no property found wherewith to satisfy the execution;" or if the officer shall have been at the place of residence of the defendant and hath not found him, he shall return that "the defendant is not found nor any property, and a copy left at his residence, (or at his last known place of residence, if he be departed,)" but all returns may be varied to suit the truth of the case and if; any defendant shall have absconded or removed to another county or State, after the rendition of the judgment, or shall be about to abscond or remove either himself or his effects, or any of them, out the county in which he resided at the time of rendering the judgment, or by any other ways or means, shall attempt to hinder, defraud or delay the plaintiff in the collection of his debt or demand, or do any act whatever, calculated to have that effect, the plaintiff upon filing an affidavit

with the proper Clerk or Justice of the Peace, that he does verily believe any one of those facts to exist or be true, shall have execution to any county that he shall request; but in all these cases, the plaintiff making such affidavit, shall be responsible to the defendant for any damages that may accrue to him in case he shall upon suit brought, shew that the apprehensions of the plaintiff were groundless; and moreover, any party making an affidavit in pursuance of any of the provisions of this act, shall be liable to the pains and penalties of perjury, and to be convicted therefor, whenever it shall appear that the affidavit was false, and that such falsity was known to the party making the same at the time of making it.

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The plaintiff to be liable for the abuse of this provision.

SEC. 21. Where any obligor or obligors, or either of them, obligee or obligees, or either of them in any replevy bond or other bond, having the force and effect of a judgment, shall die before satisfaction thereof, execution or executions may be sued out on any such bond, in the name of the surviving obligee or obligees, or against the surviving obligor or obligors, without suing out a writ of *scire facias* or other dilatory proceeding.

Where either party in a replevin bond dies execution may issue in the name of their representatives without a scifa.

SEC. 22. That where any execution shall be delivered to the collecting officer of any other county, than that in which the creditor resides, such creditor may name some person resident within the county in which the execution is to be levied, as his agent, by endorsing on the back of the execution such appointment, and such person shall be entitled to receive the money mentioned in said execution, and give and receive from the sheriff or jailor, any notices which may be necessary in relation to such execution or proceedings thereon; and where such endorsement is made on one execution or on the memorandum book of the Clerk or Justice of the Peace, the same shall be copied on every subsequent execution that may issue for the collection of the money, unless otherwise directed. And if such plaintiff shall fail to make such endorsement, the Sheriff shall not be liable to a motion or suit for not paying over the money until the plaintiff shall make, or cause a demand to be made of the Sheriff or his representatives.

Creditor not resident in the county to appoint an agent.

SEC. 23. When any Sheriff, Constable or other officer in virtue of any execution, shall have receiv-

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Where an execution is collected, and an injunction obtained, the money to be returned.

Remedy against the officer failing to pay it back.

This act to apply to executions issued by Justices, so far as the provisions are appropriate.

Officers not to go out of their county to return executions.

To enclose them by mail.

ed the whole or any part of the money or bank notes, for which the said execution issued, and the person against whom such execution issued, his executors or administrators shall obtain an injunction or superseas to such execution, or the judgment on which it issued, or for any part of the money or bank notes mentioned therein, before such money or bank notes so received by such officer, shall have been paid to the plaintiff in such execution, his agent or attorney, or his executors or administrators; in any such case the Sheriff, Constable, or other officer, his executors or administrators, agent or attorney, the money or bank notes so collected by him, or such part thereof as may be enjoined; and if any Sheriff, Constable or other officer, his or their executors or administrators shall fail herein, upon proper demand made, such Sheriff, Constable or other officer, and his securities, his or their executors or administrators, and such of them, shall be liable to the like proceedings, penalty and judgment in favor of the person or persons, his or their executors or administrators, of and from whom the said money or bank notes was collected, as is by law directed, in cases in which such officer shall have collected money on any execution, and has failed to pay the same over to the person entitled thereto, and the proceedings against Sheriffs, Constables and other officers shall be as heretofore.

SEC. 24. Executions issued by a Justice of the Peace shall bear teste in his name, and be returnable within the time herein limited for executions emanating from the office of a Clerk of a Court, and in all respects so far as the same will be appropriate, this act shall apply to the Magistrate issuing, and to the Constable receiving any execution, and they shall respectively be governed accordingly.

SEC. 25. When any execution shall issue from the Clerk's office or a Justice of the Peace in one county, and be received by the proper officer in another, such officer having made thereon the proper return, shall not be compelled to go out of his county to return the same, but may, keeping a copy of such execution and return, enclose and seal the same in a proper envelope, and direct it to that Clerk or Justice of the Peace of the county from whence it emanated, and endorse on the back thereof the title of the suit or execution, and that such execution is inclosed, and place the same in a post office to be for-

warded by mail, taking the certificate of the post master or some other credible person that he has done so, which shall, so far as regards such officer, be considered a return of the process.

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SEC. 26. When the plaintiff in detinue shall obtain judgment for any particular slave or slaves, or other thing, the Clerk shall, at the request of the plaintiff or his attorney, issue an execution directed to the Sheriff or other proper officer of any county in the State, commanding such officer to take with him, if requisite, the power of the county, and seize and take into his possession the thing so recovered, and deliver the same to the plaintiff. *Provided however,* That this act shall not be construed to prevent the plaintiff in such judgment from having his writ of *fiern facias*, or other writ upon such judgment, taking but one satisfaction thereof, nor shall the defendant in such judgment discharge himself by tendering the alternate value, unless the plaintiff shall have elected to receive it, or unless the Court shall have ordered it, upon satisfactory proof that the property recovered has perished, or is otherwise out of the power of the defendant, without any intention on his part to prevent the plaintiff from recovering the same specifically.

Executions
on judgments
in detinue
how to issue.

Or the plaintiff may at his election take a *fi fa* on the judgment.

Lands taken
in execution
to be valued.

SEC. 27. When any land shall be offered for sale by a Sheriff or other officer, it shall and may be lawful for the plaintiff and defendant, or his or their agent or attorney, each to name one disinterested housekeeper, of that county in which the land or the greater part thereof lies, who is nowise related to either party, to act as appraisers of such property; and on the failure of either party to make such nomination, or the person or persons so appointed, failing to attend or act, the Sheriff shall substitute one other person or two, as the case may be, qualified as above; and the Sheriff or other officer shall administer to such appraisers, an oath, that they will well and truly estimate the value of such land in gold or silver, without favor, affection or partiality towards either party. Thereupon the appraisers shall proceed to estimate the value agreeably to the above oath, and report the same to the Sheriff or other officer; but if they do not agree within a convenient time, such officer shall act as umpire, and fix the value thereof himself; and in either case he shall endorse the value of the land on the process under which the sale is made.

Appraisers
how appointed.

1828.

The officer may designate off what part of a tract the portion sold is to be taken.

Provided the officer shall sell the portion designated by the defendant if he attends.

The part sold to be valued.

If the land does not bring two thirds of its value, subject to redemption.

And upon what terms.

Mode of proceeding in such case.

SEC. 28. If the whole of said tract, when exposed to sale, shall have been bid up to the amount of the execution or executions under which it is sold, and all costs, then the officer selling the same, shall designate on which end or side the purchaser shall have what he may buy, laid off to him, and shall then cry the same in such manner as to ascertain who will pay the debt and costs for the least number of acres or portion of the land off of such side or end, to be laid off in convenient form: *Provided however*, That the officer shall always sell off that side or end which the defendant or his agent or attorney may elect, if he will attend the sale, and make known his election, or designate the same to the officer in writing.

SEC. 29. Where less than the whole tract will satisfy the execution as above, the officer shall forthwith after the sale, cause the part so sold, to be valued in the manner above pointed out, and endorse such valuation with the other facts necessary to explain the same, upon the execution or some paper appendant thereto, and make return thereof as in other cases.

SEC. 30. If said land or such part thereof as shall be sold, does not bring two thirds of its value, the defendant or defendants, his or their executors or administrators, shall have a right to redeem the same at any time within one year from the day of sale, by paying the purchaser or his assigns, the original purchase money, with interest thereon, after the rate of ten per centum per annum; and where any defendant shall redeem his land in virtue of this act, he shall take from the purchaser, a receipt, which shall be lodged with the Clerk of the court, to be filed away with the process in the case. But, if on the defendant tendering payment to the purchaser, or his agent or attorney, if in the county in which such land lies, or in which the judgment was rendered, and if known to the said defendant, his administrators, heirs or assigns, of his purchase money and interest, as aforesaid, the purchaser refuses to receive the same, it shall be lawful for the defendant, at any time within the year, to go before the Clerk of the court from which the process issued, and make affidavit of the tender and refusal aforesaid, or that the purchaser or his agent, or attorney, does not reside within the county where the land lies, or from whence the process issued as he believes, and pay

ever the same to said Clerk, for the use of said purchaser, and the Clerk shall thereupon give a receipt for the same, and file said affidavit as above provided.

SEC. 31. If the said Sheriff shall have conveyed the land so sold, and the same shall have been redeemed, as above provided, it shall be the duty of the purchaser, on the repayment of the purchase money and interest within the year as above, to reconvey the lands to the defendant, by deed of quit claim: *Provided however*, That nothing in this act shall be construed to allow a redemption of land, sold for two thirds of its value, nor shall the valuation principle nor the redemption under it, apply to any case under an execution issued at the request of the defendant, where the land lies in another county than that in which the judgment was rendered, or than that in which the defendant owner of the land may reside, nor shall any thing in this, or the preceding section of this act, be construed to extend to cases in which the execution may be endorsed, that Bank paper will be received in discharge thereof, as now allowed by law.

SEC. 32. The right of redemption herein provided for, shall be subject to be sold under execution, and the same shall be subject to be redeemed by the defendant owner, at any time within one year from the time of the first sale.

SEC. 33. The right of replevin herein reserved, shall be allowable in, and shall extend to all cases in which there has not theretofore been a replevin or forthcoming bond forfeited, except as herein before excepted, and except also, the writ allowed by this act to issue upon a judgment in detinue, for the specific thing recovered, and except also executions issued upon sale bonds, and in all cases in which a replevin shall have been had, and in all cases in which by this act, the same is not allowable, the Clerk or Justice of the Peace shall endorse thereon that "no security shall be taken," in which case the Sheriff or other officer having taken property in virtue thereof, shall sell the same for the best price that can be had, for ready money or bank notes, if the execution shall be endorsed to receive bank notes.

SEC. 34. If any party defendant in a judgment have several parcels of land, which lie in the same county, he or his agent may, by writing under his hand, at any time before the day of sale, require the

1828.

Land to be reconveyed to defendant.

Redemption principle not to apply to cases where the land sells for two thirds of its value.

Or where the land lies in a county other than that in which the debt resides.

Nor in cases endorsed to receive bank paper.

Right of redemption subject to execution.

In what cases the right of replevin exists In other cases the clerks or justices or justices to endorse "no security shall be taken."

Debt in execution having several tracts of land may direct which of the parcels shall be first sold.

1828.

May at the request of debt before *fi fa* issues give up land in another county.

Title to be set forth and filed

To make affidavit that he believes the same will satisfy the execution.

And that it is not in the adverse possession of another.

In what manner property levied on may be released by the surrender of other property.

Sheriff or other officer to whom the writ of *feri facias* upon the judgment may be directed, to make the debt or damages and costs of such of the said parcels as the owner or his agent shall think proper: and if the parcels be in different counties, the Clerk shall and may, at the like request in writing, direct the *feri facias* to the Sheriff or other proper officer of that county which the party or his agent shall particularly mention, at any time before the delivery of the writ of execution to the officer: *Provided however*, That in either case, the party shall also state in the written request, the manner in which he derives title to the said lands, and that he has never transferred or conveyed the same, and that he does verily believe that he has good title thereto, and that he does verily believe that the same will satisfy said execution, and shall make oath to the truth of the same, and file with said written request, all title papers, or properly authenticated copies thereof, necessary to shew his claim of title complete, unless the same be derived by descent, and in that case he shall state the same in said affidavit, and shall further make oath that the land is not in the adversary possession of another, or in case of his failure, in any one particular, the Clerk shall disregard such request; and should said land be sold, that court from whose Clerk's office the execution issued, shall make an order directing such title papers to be delivered to the purchaser; and in case it be released, then that they shall be restored to the defendant owner.

SEC. 35. Any defendant in execution may at any time before the day of sale, surrender any other personal property to the officer in lieu of his slaves, and may in like manner surrender his lands situated in that county, in which the levy may be made, in discharge of his slaves or goods, and his slaves or goods in discharge of his lands; but in such case the officer must take notice that the goods or lands tendered, will sell for a sum equal to the amount due on such execution, with the costs: and where he has doubts upon that subject, he may retain the property so levied upon, in custody, until after the sale of the property so surrendered; and upon its failing to satisfy the execution, may proceed forthwith to sell so much of the property thus reserved, as will satisfy the residue of said execution: *Provided however*, That the surrender of any property in lieu of other property

levied upon shall not delay the sale, but the officer shall proceed at the time appointed in his advertisement for the sale of the property first levied upon, and at the proper place agreeably to this act, to make sale of the property so surrendered, even though there be not time for advertising the same the number of days required by this act, after the making of such surrender, but he shall proceed to advertise and make the intended sale as public and as generally known, as the time and other circumstances will enable him: *Provided further*, That nothing in this act contained shall authorize a Constable to make sale of land, or to authorize a surrender of land to a Constable in lieu of other property—all legal title to real estate shall be liable to sale by execution, whether in actual possession or not.

SEC. 36. When estate, real, personal or mixed, is held or covered, by mortgage, deed of trust or other incumbrance, all the right, title and interest, legal or equitable, which the mortgagor or grantor has in said estate, shall be subject to be levied upon, and sold by execution in the same manner as such property might have been sold if no such incumbrance had existed, and the purchaser shall take it subject to such incumbrance, and may pay off and discharge such incumbrance and thereby perfect his title thereto, in the same manner, as the grantor, mortgagor or other person having an equity of redemption therein might do: *Provided however*, That when such property shall be real estate, then the mortgagor or grantor, shall have the right to redeem the same within the year, but if the purchaser under execution shall have paid off and redeemed the real estate from such incumbrance, then the grantor or mortgagor shall also repay and refund the amount properly paid by such execution purchaser in discharge of such incumbrance, within the same time and payable in the same manner as the purchase money is by this act made payable: *Provided however*, That the purchaser or purchasers of any such mortgaged property, shall, before he takes possession of the property, give bond and security, that he will not within twelve months, sell or remove the property out of the state, but that he will during that time have the property at all times forthcoming, unavoidable accidents excepted, to any order or decree of any court of competent jurisdiction: *And provided also*, That

1828.

Surrender not to delay the sale previously advertised.

Constable not to sell land. Legal title to land subject to execution although not in actual possession.

Mortgaged property may be sold liable to the incumbrance thereon.

If real estate, subject to redemption.

Purchaser of personal estate to give security.

1828.

Courts of equity may controul the estate.

Nature of the bond to be given by the purchaser.

When a bill is returned "no property" a bill in equity may be filed to subject choses in action to the satisfaction of the judgment.

Proviso.

A bill of discovery may also be filed.

When to be answered.

at any time when any such sale shall be made, the courts of equity shall have full power to controul the estate mortgaged, whether the mortgage be forfeited or not, and to make all proper and necessary orders, for its preservation and forthcoming; which bond shall be taken by the Sheriff or officer making the sale, and be in a penalty at least the value of the property sold, payable to the Commonwealth, and may be prosecuted and sued on by any person or persons injured by a breach of the condition, until the whole penalty shall be recovered.

SEC. 37. Whenever an execution of *feri facias* founded upon any judgment or decree, or upon any bond having the force of a judgment, shall issue to the proper officer, and be returned as to the whole or any part thereof, in substance, that the defendant hath no effects in his bailiwick to satisfy the same, Courts of Chancery shall have jurisdiction upon bill filed, to subject to the satisfaction of such judgment or decree, or bond, any choses in action belonging to the debtor, and also any equitable or legal interest in any estate, real, personal or mixed, belonging to the defendant, and to that end may bring other parties before the court, and make such decree as may be equitable, under the jurisdiction hereby conferred; and the Chancellor shall adjust and settle the title to such tract of land, and decree a conveyance to such person as may become the purchaser, and do complete justice in the case: *Provided*, That nothing herein contained shall be construed to extend to those articles in the possession of the defendant which are exempted by law from execution.

SEC. 38. *Be it further enacted*, That whensoever any writ of *feri facias*, directed to the county in which the defendant resides, shall be returned in substance, "no property found," either as to the whole or any part of the sum directed to be made by such writ, it shall be lawful for the plaintiff to file in the Circuit Court of the county in which the judgment was rendered, a bill in chancery, to compel the defendant upon oath, to make a full and complete discovery of all choses in action and other property or estate, real, personal or mixed, in which he may have any interest, stating the nature and amount of such interest: and the defendant shall answer such bill on or before the third day of the next term after he shall have been served with a subpoena thereon, and

upon his failure to do so, the said court may direct an attachment against him immediately, to compel an answer.

1828.

SEC. 39. *Be it further enacted*, That when, by the answer of the defendant, it shall appear that he hath any interest in any chose in action, real, personal or mixed, it shall be lawful for the complainant to take such further steps as may be necessary to bring any other proper parties before the court, and the court shall have power to subject the interest of the defendant in such chose in action, or other property or estate, or so much thereof as may be necessary to the satisfaction of the complainant's demand. *Provided however*, That nothing herein contained shall be so construed as to apply to any property of the defendant, which is now exempted by law from the payment of debts.

Court may subject certain interests to execution.

Proviso.

SEC. 40. All acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed, from and after the taking effect of this act, which shall be on the first day of June next.

Repealing clause.

Approved, February 12, 1828.

CHAP. 144.—An act prescribing the mode of choosing Electors to vote for President and Vice-President.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the qualified voters of this Commonwealth, shall meet at their respective court houses and other places appointed by law for holding elections in their respective precincts within each county, on the first Monday in November next, and vote for fourteen Electors for President and Vice President of the United States, at which election, the same rules and regulations shall be observed by the several Sheriffs, Clerks, Judges and voters, as is now provided by law in electing members of the General Assembly.

Election for choosing electors, when to be held.

SEC. 2. *Be it further enacted*, That the several Sheriffs holding elections in election precincts, shall meet on the fifth day inclusive after the commencement of the election, and there make a faithful addition of the number of voters taken in their counties. And the Sheriff in each county shall on the fifteenth day inclusive, after the commencement of the

Sheriffs when to meet at their court houses to compare the votes of their precincts.

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When to meet
at Frankfort
to compare
the polls.

To certify the
result to the
Sec'y of State

Penalty for
failure of du-
ty in that par-
ticular.

Duty of Sec-
retary of
State.

Sheriffs of the
several coun-
ties to remain
two days be-
fore they
make out
their certi-
ficate, if any
Sheriff should
be absent.

Penalty on a-
ny Sheriff ma-
king default.

Electors when
and where to
meet for vo-
ting for a Pre-
sident & Vice
President.

Allowance to
Sheriffs.

To Electors.

election, meet at the town of Frankfort, and then and there compare the polls of their respective counties, in the same manner and under the same rules and regulations, and in case of failure, subject to the same penalty as is prescribed by law in electing members to Congress: and having made the said comparison and addition of the votes of all the counties in the State, shall certify, under their hands and seals, the fourteen persons voted for as Electors, who shall have received the greatest number of votes, of all those voted for as Electors: And shall thereupon, immediately deliver such certificate to the Secretary of State, under the penalty of two thousand dollars, to be collected by motion or indictment, in any court having cognizance of the same, ten days notice having been given of such motion, one half to the use of the Commonwealth and the other to the informer, or the whole to the use of the Commonwealth, if prosecuted by way of indictment; and the Secretary, on the receipt of such certificate, shall cause the names of the persons so elected to be published in the paper of the Public Printer for the time being.

SEC. 3. *Be it further enacted*, That if any Sheriff shall fail to attend at Frankfort to compare the polls of his county, as directed by this act, the other Sheriffs who shall have attended, shall wait at least two entire days before they make out their certificate; and each and every Sheriff, who shall make default till the certificate is actually made out, shall be subject to a fine of not less than five hundred dollars, nor more than one thousand dollars, to be recovered in the same manner as is prescribed by the second section of this act.

SEC. 4. *Be it further enacted*, That the Electors so elected shall meet in the town of Frankfort on the first Wednesday in December next, and vote for a President and Vice President of the United States, and make return thereof agreeably to the laws of the United States, in that case made and provided: And the Sheriffs for attending and comparing the polls under this act, shall be entitled to the same allowance and paid in the same manner as for attending and comparing the polls for members of Congress: and each Elector shall be allowed three dollars for every twenty-five miles he shall necessarily travel, and three dollars per day while attending in Frank-

fort as an Elector, for which, the Auditor is hereby directed to issue his warrant on the treasury.

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SEC. 5. *Be it further enacted*, That the Sheriffs in the respective counties in which the Electors reside, shall give such Elector or Electors notice in writing of his being elected, within eight days after comparing the polls, and on failure, shall be subject to a fine of one hundred dollars, to be recovered as the other fines herein prescribed.

Notice to be given electors by Sheriffs.

SEC. 6. *Be it further enacted*, That if from sickness, death or any other cause, any one or more of the Electors fail to attend on the day appointed, the place of such Elector or Electors shall be filled by an election to be held by the legislature by joint ballot of both Houses, and such Elector or Electors shall have the same authority to vote for President and Vice President as the Electors originally chosen would have had, if they had attended.

Vacancies of Electors to be filled by the Legislature.

Approved, February 12, 1828.

CHAP. 145.—An act for the benefit of St. Joseph's and Cumberland Colleges.

WHEREAS, it is deemed expedient, that all useful institutions for the education of youth, should receive their proper share of public patronage and support, and be placed upon one level: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all the ground and buildings called and known by the name of St. Joseph's College, at Bardstown, and exclusively appropriated to the use and benefit of said College alone, shall be, and the same are hereby exempt from taxation, so long as said ground and buildings are used exclusively for the purpose of education: *Provided*, That this exemption from taxation, shall not extend further than to the four acre lot of ground adjoining Bardstown, upon which the buildings are situated: *And provided further*, That the Legislature reserve the right at any time hereafter to repeal this act.

St. Joseph's College exempted from taxation.

Proviso.

SEC. 2. *Be it further enacted*, That four acres of land and the buildings on which the Cumberland College stands, shall be exempt from taxation.

Cumberland College also exempted.

Approved, February 12, 1828.

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CHAP. 146.—An act to authorize the insertion of advertisements in certain newspapers.

The People's
Friend author-
ized to insert
adv'tisements

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful to publish in the newspaper called "The People's Friend," to be printed in the town of Russellville, all advertisements required or authorized by law, except such as are exclusively required to be inserted in the newspaper of the Public Printer: all orders, advertisements and publications, made in said newspaper, shall be as legal and effectual as if made in any other authorized newspaper in this State; and it shall be lawful for the editor of said paper to charge the like fees and make such certificates as are authorized to be charged and made by law.

Also, The Spi-
rit of the
Times.

SEC. 2. *Be it further enacted,* That it shall and may be lawful for the editor of the "Spirit of the Times," a newspaper to be printed in the town of Hopkinsville, Christian county, to insert in said paper, any and all advertisements which are authorized to be published in this State, except such as are particularly directed to be published in the paper of the Public Printer: and the editor of said paper shall have a right to demand and receive the same fees for his services as are now allowed by law to other printers for similar services.

Also, The
Baptist Re-
corder.

SEC. 3. *Be it further enacted,* That it shall be lawful for any advertisements, which are required by law to be published in a newspaper, to be inserted in the "Baptist Recorder," a paper printed in the town of Bloomfield in the county of Nelson; and that the editor of said paper shall be entitled to the same fees and be governed by the same regulations as other printers in this Commonwealth: *Provided,* That nothing herein contained, shall be so construed as to authorize the insertion of such advertisements as are particularly required by law to be published in the paper of the Public Printer.

Proviso.

Also, The
Kentuckian.

SEC. 4. *Be it further enacted,* That it shall and may be lawful, to publish in the newspaper called "The Kentuckian," to be printed in Frankfort, all orders, advertisements and publications, required by law, except such as are exclusively to be inserted in the newspaper of the Public Printer; all publications made in said paper shall be as effectual as if made in any other authorized newspaper in this state, and

it shall be lawful for the editor of said paper to charge the like fees, and make such certificates as are authorized to be charged and made by law: *Provided*, That nothing herein contained shall be so construed as to authorize the insertion of such advertisements as are particularly required by law to be published in the paper of the Public Printer.

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Approved, February 12, 1828.

CHAP. 147.—An act for the benefit of Amy Ann B. Gibson.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract and matrimonial bonds, which heretofore existed between Robert B. Gibson and Amy Ann B. Gibson, be, and the same are hereby annulled and set aside, as to the said Amy Ann B. Gibson, and the said Amy Ann be restored to all the privileges of an unmarried woman.

Approved, February 12, 1828.

CHAP 148.—An act for the improvement of the navigation of Rough creek.

WHEREAS it appears to the present General Assembly, that Rough creek, which makes its course through a country increasing in population and wealth, in the safe navigation of which, Breckinridge, Grayson and Ohio counties, are deeply interested; Rough creek affording the only channel through which the citizens of those counties can float their surplus produce to market; this stream being deep, but narrow, its navigation is much interrupted by the formation of large rafts of floating timber across said stream, which unite together at and near its mouth, and that by the expenditure of a small sum of money the obstructions to the navigation of said stream could be removed, and its navigation made safe and convenient; and the Legislature being anxious to promote every reasonable proposition, which may have for its object the improvement of the navigation of the navigable streams of the State, and the consequent encouragement of the enterprise and industry of its citizens: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Isaac Green of

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Comm'rs appointed to remove the obstructions.

Authorized to receive subscriptions in money or property, or labour applied to that object.

\$600, appropriated out of the Hartford Branch Bank.

Comm'rs to give bond and security.

Condition thereof.

May be sued on for breach of its condition.

Allowance to comm'rs.

Proviso.

Breckinridge county, John Litsey of Grayson county, Robert Moseley and Timothy Tichenor of Ohio county, be and they are hereby appointed commissioners to open and remove the obstructions to the navigation of Rough creek, commencing at its mouth and going upwards; and they are hereby authorized to raise by subscription, any sum not exceeding one thousand dollars in money, labour or property, for the purpose aforesaid; and the said commissioners or a majority of them, are hereby authorized to cause all obstructions to the navigation of said stream to be removed, and do all other acts and things that they may deem necessary for the improvement of the navigation of said stream.

SEC. 2. *Be it further enacted*, That the sum of six hundred dollars, be, and the same is hereby appropriated on the part of the State, in aid of the subscriptions which are hereby authorized to be received, and that the Cashier of the Branch Bank of the Commonwealth at Hartford, do, and he is hereby authorized to pay over to the said commissioners the aforesaid sum, and to take their receipt for the same.

SEC. 3. *Be it further enacted*, That it shall be the duty of the said commissioners, before they proceed to act as such, to enter into bond with good security, in the penalty of five thousand dollars, with condition that they will, well and truly execute and perform the trust reposed in them by this act, which bond shall be filed with the Clerk of the Circuit Court of Ohio county, and made payable to the Governor of the Commonwealth of Kentucky and his successors, and may at all times be put in suit in the name of the Governor of the Commonwealth, for the recovery of damages from said commissioners, in case they should be guilty of any breach of its conditions, or where they shall fail to apply or misapply the funds and labour, which they may have placed in their hands and at their disposal, to aid in the improvement of the navigation of said stream.

SEC. 4. *Be it further enacted*, That the said commissioners shall each be allowed one dollar per day, to be ascertained and allowed by the County Courts of their respective counties, each county paying their own commissioners, and to be paid out of the county levy of the aforesaid counties: *Provided*, That the said commissioners shall, from time to time, file on affidavit, in said court, a certificate, stating the pre-

aise number of days that they may have been engaged in the service prescribed for them by this act.

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SEC. 5. *Be it further enacted,* That the said commissioners shall meet on or before the first Monday in September next, in the town of Hartford, and from thence proceed to perform the duties enjoined by this act and report to the next General Assembly, the amount of money so expended, and the progress they have made therein.

Com'rs when and where to meet.

To report to the Legislature.

SEC. 6. *Be it further enacted,* That if any of the commissioners herein named, shall fail or refuse to act or comply with the provisions of this act, it shall be the duty of the County Court of the county in which said commissioner may reside, to appoint some person as commissioner to fill his place, who, when appointed, shall in every respect, perform the duties enjoined by this act, and receive the same compensation and be subject to the same penalties as the commissioner herein named would have been subjected, had he acted in pursuance hereof.

Duties of C'ty Courts.

Approved, February 12, 1828.

CHAP. 149.—An act for the appropriation of money.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the following sums of money shall be, and the same are hereby allowed to the persons respectively herinafter mentioned, payable out of any money in the treasury not otherwise appropriated, viz:

Appropriations made to

To the Speaker of the Senate, four dollars per day during the present session.

Speaker of Senate.

To the Speaker of the House of Representatives, over and above his daily pay as a member, two dollars per day.

House of Representatives.

To the Clerks of the Senate and House of Representatives, sixty dollars per week each.

Clerks of Senate & House.

To the Sergeants at Arms of the Senate and House of Representatives, twenty-one dollars per week each.

Sergeants at Arms.

To the Door-keepers of the Senate and House of Representatives, twenty-one dollars per week, each.


Door-keepers.

To the Clerks of the Senate and House of Representatives, thirty dollars per week each, during the present session, for the pay of an assistant Clerk.

Asst Clerks Senate and H. Rep'tives.

To John P. Cammack, for four gilt frames of Jefferson's and Adams' letters, thirty-two dollars.

Jno. P. Cammack.

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 Henry Miller. To Henry Miller, for one large seven plate stove, set up in the Methodist church for the use of the House of Representatives, thirty-seven dollars and fifty cents.
- R. Devine. To Roger Devine, for publishing proposals for supplying the House of Representatives with fire wood, one dollar and twenty-five cents.
- T. M. Smith. To Thomas M. Smith, for going to the State of Tennessee under the authority of the Governor of this State, to demand of the Governor of that State, Calvin M. Smith, who stood charged with felony in the county of Simpson, thirty dollars.
- R. Devine. To Roger Devine, for furnishing water, candlesticks, candles, making fires, &c. for the House of Representatives during the present session, six dollars per week.
- L. Batchelor. To Littleberry Batchelor, for rendering similar services to the Senate, six dollars per week.
- R. Taylor. To Richard Taylor, for coal and a map of Kentucky, furnished for the use of the House of Representatives, twenty-five dollars.
- Lewis Taylor. To Lewis Taylor, Deputy Sergeant at Arms of the House of Representatives, for his services and expenses in summoning witnesses against Minor Winn, a Justice of the Peace for Harrison county, seventy-one dollars twenty-five cents, as per account rendered.
- R. Devine. To Roger Devine, for contracting for, receiving and measuring, sixty-one and a third cords of wood, for the use of the House of Representatives, fifteen dollars.
- Sam'l Payne. To Samuel Payne, for delivering sixty-one and one third cords of wood at two dollars per cord, one hundred and twenty-two dollars and sixty-six cents.
- Wight and Robson. To Wight and Robson, for work and labor done and materials furnished on the public property in Frankfort, seventy-five dollars twenty-two and a half cents.
- W. F. Miller. To William F. Miller, for seventy-one and three-fourth feet iron piping furnished for the House of Representatives, twenty-one dollars and fifty-one cents.
- Joel Scott. To Joel Scott, for seventy-three pounds of fire fenders for the House of Representatives, ten dollars.
- Jos. Taylor. To Joseph Taylor, for fourteen yards of carpeting, seven dollars.
- Jas. Wight. To James Wight, for two brooms furnished the House of Representatives, seventy-five cents.

To John J. Vest, for work done and materials furnished in the Senate chamber, ten dollars.

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To the Auditor of Public accounts, for additional labor imposed by resolutions of the two Houses of the General Assembly and for a balance reported to be reasonable last year, five hundred dollars.

Auditor of
Public Ac-
counts.

To Charles Hutcheson for repairing the Speaker's Chair, &c. five dollars.

C. Hutcheson.

To Messrs. Martin Beatty, John M. M'Connell, Benjamin Hardin, William M. Davis, Henry Grider and John L. Helm, the joint committee that visited the Transylvania University and the Lunatic Asylum for their travelling expenses, to each six dollars.

Joint commit-
tee to exam-
ine the Luna-
tic Asylum,
&c.

To William Wood and Adam C. Keenon, three hundred dollars each, for binding two thousand copies of the acts of the present General Assembly, one thousand to be bound by each; also sixty-two dollars fifty cents each for binding one hundred and twenty-five copies of each of the Journals of the present session; one half of which sums shall be paid in advance, and the balance upon their producing to the Auditor, the Secretary's certificate of the delivery of the number of copies hereby authorized to be bound by each of them; provided that if the full number of copies allowed to be bound by each of the persons above named, shall not be furnished the Secretary, a deduction of the rate of thirty-three and a third cents for each copy of the acts, and fifty cents for each copy of the Journals, so wanting shall be made.

Wm. Wood
and Adam C.
Keenon.

To the Clerks of the Senate and House of Representatives, forty dollars each for four day's services after the session, in preparing the acts for publication, completing the Journals and arranging the papers.

Clerks of Sen-
ate and H. R.

To the Register as a compensation for extra Clerk hire, rendered necessary by the additional duties imposed on him by law, five hundred dollars.

Register of
Land Office.

To C. and J. Samuel for sundries furnished the Senate, six dollars fifty-six and fourth cents.

C. & J. Sam-
uel.

To the Pastor and Proprietors of the Methodist Church which has been occupied by the House of Representatives during its two last sessions, one hundred dollars.

Pastor and
Proprietors of
Methodist
Church.

To Braxton and Reuben, (black men) for services rendered to the present General Assembly, fifteen dollars each.

Braxton and
Reuben.

To Adam C. Keenon for folding and stitching one

A. C. Keenon

1828. hundred and fifty copies of the Report of the committee of Internal improvements, and of the committee on the execution laws, three dollars.
- J. Dudley. To Jephtha Dudley as per account rendered, fourteen dollars.
- H. Mordicai. To Harry Mordicai as per account rendered, three dollars.
- E. Evans. To Evan Evans as per account rendered, eighteen dollars.
- A. Crockett. To A. Crockett as per account rendered, thirty-two dollars.
- W. Wood for stationary. To same as per account rendered, seven dollars.
To same as per account, seventy-five dollars.
To same as per account rendered, twelve dollars.
To same as per account rendered, forty-four dollars.
To William Wood for stationary furnished the Senate as per account rendered, one hundred seventeen dollars, and seventy-four cents.
- J. H. Holeman. To same for stationary furnished the House of Representatives, as per account rendered, one hundred twenty-four dollars and seventy-four cents.
- Jos. Smith. To Jacob H. Holeman as per account rendered, one thousand seven hundred dollars.
- A. Crockett for wood. To Joseph Smith as per account rendered, five dollars ninety-three and three-fourth cents.
- Joe (a man of color.) To Anthony Crockett for wood, as per account rendered, one hundred dollars.
- Jas. Davidson. To Joe, (a man of colour) for cleaning the furniture of each House, as per account rendered, ten dollars.
- Joel Scott. To James Davidson for attending to the public property, fifty dollars.
- J. H. Holeman. To Joel Scott as per account rendered, five hundred and twelve dollars fifty cents, which is the amount after deducting Shelby's bill for twenty-one dollars.
- To Jacob H. Holeman in advance, to enable him to go on with the Public Printing, twelve hundred dollars.

Approved, February 12, 1828.

CHAP. 150.—An act further to regulate appeals and appeal bonds.

• SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the passage of this act, no appeal bond, or bond executed upon granting an injunction or supersedeas, eith-

er in the County or Circuit Courts, General Court, or Court of Appeals of this Commonwealth, shall be quashed or set aside for any technicality or other defect upon the face of the bond; but the Court shall decide upon such defects and decide whether the same be a good statutory bond or not, and if not, then such Court shall dismiss the appeal, or writ of error or other proceeding upon which a supersedeas may have been had, or dissolve the injunction, unless the party appellant, plaintiff or complainant, as the case may be, shall forthwith, upon the defect being announced by the Court, and as soon as a bond shall have been prepared, together with good and sufficient security, to be approved of by such Court, conditioned as the law in such cases directs, execute another bond to be prepared by the Clerk of such Court, and the execution of such new bond shall not be cause of continuance for either party, and the bond so declared defective, may, notwithstanding be sued upon as a bond at comon law.

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Appeal on injunctions or supersedeas bonds not to be quashed, &c.

If defective, new bond may be executed, &c.

SEC. 2. That hereafter an appeal may be taken from the judgment of a Justice of the Peace, at any time within two months after the rendition of the judgment of the Justice, upon giving bond and security as now required by law, but such appeal shall not operate to supersede or stay the judgment of such Justice of the Peace, unless the bond shall have been executed within twenty days as heretofore.

Appeals from judgments of Justices of the Peace may be taken within two months thereafter, &c.

Approved, February 12, 1828.

CHAP. 151.—An act making a further appropriation for the rebuilding of the Capitol, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That so much of the first section of the act to provide for the rebuilding of the Capitol and for other purposes, approved twelfth of January, one thousand eight hundred and twenty-seven, as appoints Commissioners therefor, be and the same is hereby repealed, and in lieu of said Commissioners, John Brown, Peter Dudley, John Harvie and James Shannon, be and they are hereby appointed Commissioners to superintend the erection and completion of said Capitol, and that they be governed by the requisitions of the act above referred to.

Part of first sec. of act of 12th January 1827 repealed

Commissioners appointed

SEC. 2. *Be it further enacted,* That for the purpose

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\$20,000 appropriated to rebuilding the Capitol.

of completing said building, the sum of twenty thousand dollars, be and the same is hereby appropriated, out of any unappropriated money in the Treasury, to the Commissioners hereby appointed, to be drawn from time to time by said Commissioners as they may require it, for the purpose aforesaid; and the Auditor of Public Accounts is hereby directed to issue his warrant or warrants to said Commissioners or a majority of them, from time to time, for such amount or amounts, as said Commissioners or a majority of them may from time to time require: *Provided*, That the aggregate of such warrants shall not exceed the amount hereby appropriated.

Proviso.

Com'rs. may draw on keeper of the Penitentiary.

SEC. 3. *Be it further enacted*, That said Commissioners be and they are hereby authorized to draw upon the keeper of the Penitentiary, for any materials that he can conveniently furnish, that they may be enabled to use in the completion of said Capitol.

Approved, February 12, 1828.

CHAP. 152.—An act to allow an additional Justice of the Peace in Union county, and for other purposes.

Additional Justice of the Peace allow'd to Union c'ty.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the County Court of Union to recommend one additional Justice of the Peace for said county, who shall be commissioned by the Governor.

A Constable allowed to Casey c'ty.

SEC. 2. *Be it further enacted*, That there shall be allowed to the county of Casey two additional Constables to the number now allowed by law.

Act allowing a Justice of the Peace to Rockcastle when to operate.

SEC. 3. *Be it further enacted*, That any law passed the present session, authorizing an additional Justice of the Peace for Rockcastle county, shall not take effect until the end of one year from the passage of said act, so far as relates to the Justice of the Peace for Rockcastle county; this section is to operate as a supplemental bill to said act, or that part of said act as authorizes an additional Justice of the Peace for Rockcastle county.

* Justice of the Peace allow'd to Bracken.

SEC. 4. *Be it further enacted*, That there shall be allowed to the county of Bracken one additional Justice of the Peace.

SEC. 5. *Be it further enacted*, That the Clerk of the Circuit and County Court of Casey be, and he shall be allowed to present his claims against the Common-

wealth of Kentucky, to any court of his county, previous to the first of August next, for the purpose of having his claims of one thousand eight hundred and twenty-seven, certified: and the Auditor shall receive any such claim thus certified, and account for the same to said Clerk just as though said claims had been certified according to law.

1828.

Approved, February 12, 1828.

CHAP. 153.—An act for the benefit of the heirs of James Neely, deceased.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that James Neely departed this life, leaving a tract of about two hundred acres of land, and that the executor of said Neely, with his numerous heirs, believing that it would redound both to the interest of the estate and said heirs, (inasmuch as if said tract was divided amongst them, that it would not amount to more than about thirteen acres each) to sell the same: And whereas, doubts are entertained whether, upon bill filed, the Circuit Court of Simpson county would exercise jurisdiction thereof; For remedy whereof, Preamble.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Circuit Court of Simpson county is hereby authorized and empowered, upon bill filed by said executor and heirs, or any portion thereof, making the remainder defendants, to decree a sale of said land, if upon a fair investigation of the matter, said court shall be of opinion that the interest of said estate and heirs would be promoted thereby; and that said court decree either distribution of the proceeds to the respective heirs of said estate, agreeable to their respective rights and interests, or that so much thereof as may be necessary for the payment of the debts of said estate, be decreed to be placed in the hands of said executors for the payment of said debts, taking bond with good and sufficient security, in such penalty as the court may deem expedient, conditioned for the faithful application of the proceeds of the land, according to the directions of the decree.

Sale of land authorized to be made by a decree of the Simpson Circuit Court.

Approved, February 12, 1828.

1828.

CHAP. 154.—An act appropriating fines and forfeitures, for the lessening of the county levy of certain counties.

Fines and forfeitures in Anderson County appropriated to the lessening the County levies, and to be paid over to the County Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all fines and forfeitures now accrued, or that may hereafter accrue in the county of Anderson, be, and they are hereby appropriated to the lessening the levy of said county, and that all officers who may have heretofore collected or may hereafter collect any such fines and forfeitures under the laws of this Commonwealth, they may, and are hereby directed to pay the same over to the order of the County Court of Anderson, a majority of the Justices thereof being present, and that said County Court appropriate the same, to the reduction of the levy of said county. All laws or parts of laws, contravening the provisions of this act, are hereby repealed.

Provisions of this act to apply to certain counties.

Sec. 2. *Be it further enacted*, That all the provisions of the foregoing section, shall apply and enure to the counties and County Courts of Barren, Russell, Boone, Franklin, Pike, Lincoln, Meade, Greenup, Spencer, Edmonson, Scott, Grayson and Jessamine, and that they respectively appropriate such fines and forfeitures, to the reduction of the levies of said several counties.

Approved, February 12, 1828.

CHAP. 155.—An act to amend an act, entitled, "An act to prevent the masters of vessels and others, from employing or removing persons of colour from this State."

Provisions of recited act extended to mate, clerk, pilot and engineer of steam vessels.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the provisions of the act to which this is an amendment, shall apply to the owners, mate, clerk, pilot and engineer of any steam vessel, as well as to the master, and they shall all be liable to indictment, or to the action of the party aggrieved, either jointly with the master, or severally, and either at law or in chancery.

Liabilities when to accrue.

Sec. 2. *Be it further enacted*, That the liabilities under said act shall accrue whenever the person of colour shall be taken on board any steam vessel from the shores of the Ohio river, opposite to this State, to the same extent as if they were taken on board from the shores or rivers within this State; and the like liability shall occur for landing or suffering them

to go on shore within, as without the State: *Provided*, 1828.
nothing in this act, or the act to which this is an amendment, shall be so construed, as to apply to any *Proviso*.
person of colour who is not a slave.

Approved, February 12, 1828.

CHAP. 156.—An act to amend the Militia law.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be the duty of the acting Adjutant of each Regiment of militia, and in his absence the Sergeant Major, to make return of all delinquent Company and Regimental staff officers, at the Brigade, Battallion and Regimental Drills or musters, as well as at the annual courts of Assessment and call courts, to the Colonel or commanding officer of the Regiment, who, with the Lieutenant-Colonel and Major, or a majority of them, shall constitute a Court of Assessment, to convene at the same time and place, of the annual Regimental Court of Assessment, to try and assess fines as is now prescribed by law, against all or any delinquent so returned, and said court shall have the same power and authority, as is now vested in the Regimental Court of Assessment: *Provided*, All delinquents fined by said Court, shall have the right to appeal, at any time within thirty days thereafter, to the Brigadier General, whose decision shall be final.

Duties of Adjutants and Sergeant Majors in making returns of delinquent officers to the Colonel of the regiment.

Colonel, Lt. Colonel and Major, to compose a court of assessment.

Their powers.

Proviso.

SEC. 2. *Be it further enacted*, That the seventh section of an act to amend the militia law, approved December seventeenth, one thousand eight hundred and twenty-one, be, and the same is hereby repealed, and that part of the act passed the fourth of February, one thousand eight hundred and fifteen, repealed by that section, is hereby revived and declared in full force.

7th section of the act of 1821 repealed.

Part of the act of 1815, heretofore repealed, declared to be revived.

SEC. 3. *Be it further enacted*, That no Company officer shall be permitted to wear more than one epaulette, Captains on the right and Subalterns on the left shoulder.

Company officers to wear but one epaulette.

SEC. 4. *Be it further enacted*, That it shall be the duty of commandants of Regiments to notify their respective Brigadier Generals, whose duty it shall be to notify their Brigade Inspectors of the times and places of holding their Battallion and Regimental

Duties of Brigadier Generals and commandants of regiments.

1828.

Annual courts
of assessment
where to be
held.

Privileges of
officers.

musters, on or before the fifteenth day of April annually.

SEC. 5. *Be it further enacted,* That the annual Courts of Assessment of fines shall meet hereafter on the last Monday in October in each year, instead of the last Monday in November as heretofore directed, and that all officers of uniform companies, may appear in the uniform of such companies.

Approved, February 12, 1828.

CHAP. 157.—An act to remove the obstructions to the navigation of Pond River.

Commrs ap-
pointed to re-
move obstruc-
tions.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That James M'Kinney, Jr. of Christian, John Vickers of Muhlenburg, and William T. Smith of Hopkins county, be and they are hereby appointed commissioners for the purpose of removing the obstructions to navigation out of Pond river, agreeably to the provisions of this act.

When and
where to meet

SEC. 2. *Be it further enacted,* That the said commissioners or a majority of them, shall assemble at the court house in the county of Hopkins, on or before the first Monday in May next, and take an oath before some Justice of the Peace of said county, faithfully to discharge the duties enjoined on them by this act.

To take an
oath.

Their duties.

SEC. 3. *Be it further enacted,* That it shall be the duty of said commissioners or a majority of them, so qualified, to cause to be removed, all such obstructions to the navigation of said stream, as may seem to them most necessary to be removed, beginning at the mouth of said stream and proceeding upwards.

\$600 appro-
priated
from the pub-
lic treasury.

SEC. 4. *Be it further enacted,* That said commissioners shall be, and are hereby authorized to receive out of the treasury the sum of six hundred dollars, to be used and expended, together with such sums as may be voluntarily subscribed for that purpose, in removing the obstructions to the navigation of Pond river, agreeably to the provisions of this act; and the Auditor is hereby directed to issue his warrant on the treasury for that sum, payable to the said commissioners or such portion of them as may qualify, and execute bond as hereinafter directed.

Commrs to
execute bond.

SEC. 5. *Be it further enacted,* That said commissioners, or such of them as shall qualify in pursuance of the second section of this act, shall, before they

draw any money from the treasury, execute bond in the penalty of two thousand dollars, payable to the Commonwealth of Kentucky, with one or more sufficient securities, to be approved by the County Court of Hopkins, conditioned for the true and faithful performance of the several duties which may devolve upon said commissioners under the provisions of this act; which bond shall be deposited for safe keeping in the Clerks office of said county.

1828.

Condition thereof.

SEC. 6. *Be it further enacted*, That the said commissioners shall open a subscription, for voluntary contributions towards removing the obstructions in Pond river, which subscriptions shall be payable to such of the said commissioners as shall execute bond as aforesaid, for the purposes aforesaid: and the said commissioners shall have power to sue for and collect the same, and appropriate the proceeds agreeably to the provisions of this act; or they may assign and transfer the said subscription list to such person or persons, as they may engage to undertake the removal of the obstructions to the navigation of said river; and in the event of such assignment, the assignee or assignees may sue thereon in his or their own proper names.

Authorized to receive subscriptions from individuals in aid of the appropriation, and to sue for, collect or transfer the same.

SEC. 7. *Be it further enacted*, That if the said commissioners shall, in any respect, fail in performing the duties assigned them by this act, it shall be competent for the County Court of Hopkins to cause a suit to be instituted on the said bond in the Circuit Court of said county; and it shall be the duty of the Attorney for the Commonwealth for said circuit to prosecute said suit, and whatever sum may be recovered, for a breach or breaches of said bond, shall be applied under the direction of said County Court, to the removal of the obstructions in said river.

Remedy against com'rs for breach of duty.

SEC. 8. *Be it further enacted*; That the said commissioners shall, on or before the tenth day of the next annual session of the Legislature, report their proceedings under the provisions of this act.

Comm'rs to report to Legislature.

Approved, February 12, 1828.

CHAP. 158.—An act to authorize certain County Courts to appoint reviewers to view a way from Thomas Kennedy's in Garrard county, to the Green river salt works.

WHEREAS, it is represented to the present General Assembly, that a road opened from Thomas Kenne-

Preamble.

1828.

dy's in Garrard county, by the way of Stanford, to the State road leading from Danville to Murfreesborough, Tennessee, at or near the Salt works in Casey county, would be of great utility to the public and to the citizens of the eastern parts of the State in particular; the facility would be greatly increased to the farmers, in getting that indispepsable article called salt, with convenience to their homes: Therefore,

Certain C'ty
Courts to ap-
point review-
ers.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the County Courts of Garrard, Lincoln and Casey, as soon as practicable, shall cause viewers to be appointed in each of their respective counties, to view the best and nearest way for a road from said Kennedy's, by the way of Stanford to intersect with the State road leading from Danville to Murfreesborough, Tennessee, at Berry Vandiver's in Casey county, and the County Courts of each county shall cause the same to be opened as soon as convenient, at least thirty feet wide: *Provided however*, That the courts aforesaid, in the appointing of viewers and opening said road, shall be governed by the laws now in force on the subject of public roads.

Road to be 30
feet wide.

Proviso.

County Court
of Casey au-
thorized to lo-
cate and car-
ry into grant
2,000 acres of
vacant land.

SEC. 2. *Be it further enacted*, That the County Court of Casey, shall, and they are hereby authorized to locate, survey and carry into grant, two thousand acres of vacant and unappropriated land within the county of Casey, in one or more surveys, none of which shall be less than fifty acres, unless bounded all around by the lines of other surveys.

County Court
authorized to
convey said
land.

SEC. 3. *Be it further enacted*, That the County Court of Casey shall have power to sell and convey, by deed in fee simple, the aforesaid two thousand acres of land, and the proceeds of which shall be expended in causeway that part of the State road aforesaid, as lies between the aforesaid Berry Vandiver's and the first crossing of Carpenter's creek, on the direction to Perkins' Salt works.

Proceeds how
to be applied.

Duties of the
Register of
the Land Of-
fice.

SEC. 3. *Be it further enacted*, That the Register of the Land Office be, and he is hereby directed to issue patents to the County Court of Casey or their assigns, which assignment shall be attested by the Clerk thereof, for the aforesaid two thousand acres of land or any part thereof, without fee, upon the

production of a plat or plats and certificate of survey, as in other cases.

1828.

Approved, February 13, 1828.

CHAP. 159.—An act to incorporate the Lexington Rail Road or Turnpike Company.

WHEREAS, it appears that the constructing a Railway from the town of Lexington to some point on the Kentucky river, would be of great utility: Therefore,

Recital:

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a Company shall be formed under the name, style and title of "The Lexington Rail Road Company," for the purpose of making and constructing a Rail way or Rail road from the town of Lexington to such point on the Kentucky river as said Company may hereafter determine.

Company formed.

SEC. 2. *Be it further enacted,* That the capital stock of said company, shall be sixty thousand dollars, divided into twelve hundred shares of fifty dollars each.

Capital stock

SEC. 3. *Be it further enacted,* That books for the subscription of the stock of said Company, shall be opened in the towns of Lexington and Athens in Fayette county, on the first Monday in May next, at such place as the commissioners hereafter named shall direct, to continue open from day to day for one month, and afterwards from time to time, by adjournment or otherwise, as the commissioners hereinafter named (or such of them as may choose to act,) shall think best, until the whole sum hereby authorized to be subscribed, shall be taken.

Books of subscription for stock therein to be opened at Lexington and Athens.

SEC. 4. *Be it further enacted,* That Richard Higgins, John W. Hunt, John Tilford, Joseph Logan, Englehart Yeiser, Richard H. Chinn, Benjamin W. Dudley, Luther Stephens, Jeremiah Rogers, Harvey Bledsoe, Charles Carr, William H. Richardson and John Love, shall be, and they are hereby appointed commissioners under this act, whose duty it shall be to receive subscriptions for stock in manner following, to-wit: At the time of subscribing, each person shall give his note, negotiable and payable at the United States Bank in the town of Lexington, for the sum of five dollars on each share subscribed, payable ten days after the first general meeting of stockholders and election of President and Directors, of which

Names of the comm'rs appointed to receive subscriptions for stock.

Terms of subscription.

1828.

meeting at least thirty days notice shall be given, and five dollars more on each share, within sixty days after such election, and ten dollars more on each share every three months thereafter, until the whole shall be paid, unless, in the opinion of the President and Directors a longer term should be granted, of which they shall give thirty days notice, in one or more of the public newspapers published in Lexington.

No subscriber for stock to receive any dividend who fails to pay his installments of stock and his stock may be forfeited.

SEC. 5. *Be it further enacted*, That no subscriber shall have any benefit or draw any dividend, or be entitled to any privileges in said company, while any failure exists in the payment of any installment as it becomes due, and on failure to pay any such installment for three months after it becomes due, or shall have been called for, said share or shares on which there is such failure, shall be forfeited to the said company, together with what may have been paid thereon.

General meeting of the stockholders may be called, &c.

SEC. 6. *Be it further enacted*, That when it shall appear from the Commissioners' books that one half of the stock authorized to be subscribed, shall have been taken, the Commissioners shall immediately take the necessary steps to have a general meeting of the stockholders, giving at least thirty days notice in one or more of the public papers printed in Lexington, of the time and place of said meeting, for the purpose of choosing a President and six Directors of the Lexington Rail Road Company.

Company incorporated, & the style of incorporation

SEC. 7. *Be it further enacted*, That said company when so formed, shall be and they are hereby created and made a corporation and body politic, by the name, style and title of the President and Directors of the Lexington Rail Road Company, and shall so continue and have perpetual succession, and by that name are hereby made able and capable in law to sue and be sued, plead and be impleaded, answer and be answered, in all courts of law and equity in this Commonwealth, and elsewhere, and to make, have and use a common seal, and the same to break, alter or renew at pleasure, and also to ordain and establish such by-laws, rules and regulations as shall appear necessary for governing the concerns of said company, not being repugnant to this act or the laws and Constitution of this Commonwealth, or the Constitution and laws of the United States.

Corporate powers granted.

Manner of voting stock.

SEC. 8. *Be it further enacted*, That the number of votes each stockholder shall be entitled to, shall be

according to the number of shares they may hold in proportion as follows, to-wit: for every share under five, one vote, for every two shares over five and not exceeding ten, one vote, for every four shares over ten and not exceeding thirty, one vote, for every six shares over thirty and not exceeding sixty, one vote, for every ten shares over sixty and not exceeding one hundred, one vote, and for every twelve shares over one hundred, one vote.

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SEC. 9. *Be it further enacted,* That the stockholders in said company, shall meet annually on the first Monday in April, for the purpose of choosing a President and six Directors, to continue in office for one year, and until others shall be chosen in their place; the first President and Directors shall continue in office until the first annual meeting thereafter and their successors be duly elected as above provided.

Stockholders to meet annually, &c.

First President and Directors to continue in office, &c.

SEC. 10. *Be it further enacted,* That the President and Directors of said company by themselves or agents, shall have full power to enter with their engineers, superintendants, workmen, &c. as they may find necessary, into and upon any lands in the vicinity of the contemplated road, and to survey and lay out such route or tract, as shall be deemed by them most practicable for effecting a safe and easy construction of said road, doing as little damage as possible to the grounds and enclosures; and it shall and may be lawful for the President and Directors to contract and agree with the owners of the lands, for the conveyance of so much as may be necessary for the purpose of making and perfecting said road, and of erecting and establishing all the necessary engines, works, buildings, &c. &c. to such roads belonging, if they can agree with such owners; but in case of disagreement, the said company may lay out and commence their works on such grounds as they may deem best adapted for the purposes of said Rail Road, and on application of either party, the Judge of the Fayette Circuit Court shall appoint six freeholders, disinterested persons to view and assess the damages, and to make return thereof to Court, which return when confirmed and entered of record by said Court shall be final, and on payment of the money, shall vest the fee simple of the land in the company.

Powers of the President and Directors.

May condemn sufficient land if they cannot agree with the owner.

SEC. 11. *Be it further enacted,* That it may and shall be lawful for the President and Directors, by or with their engineers, superintendants, labourers,

May also use timber, stone, gravel, &c.

1828.

&c. together with their wagons, carts, slides, beasts of draft and burthen, and all necessary tools and instruments, to enter into and upon the lands contiguous to the line of the contemplated Rail Road, and to take, use and carry away timber, stone, gravel, earth, &c. &c. for the purpose of making and repairing said Railway, having first made compensation for the same to the owner or owners of said land if they can agree, if not, then by valuation as heretofore directed.

Stockholders may by vote decide on the route of the road to the river.

May make the same run on any public road.

Trustees of Lexington authorized to subscribe for stock, &c.

Dividends on the stock owned by them to be applied to repay the loan, &c.

Penalty on persons for injuring the Railway or fixtures.

Amount of tolls allowed, &c.

SEC. 12. *Be it further enacted*, That at the first general meeting of stockholders, it may be decided by vote given, as before provided, what general route said Railway shall take to the Kentucky river, which vote shall determine the question, and settle the route of the Road. Said company shall be at liberty to run the line of said Rail Road on any public Road so as not to injure the same, and allowing sufficient room on said public Road for wagons and carriages to pass each other.

SEC. 13. *Be it further enacted*, That the Trustees of the town of Lexington be, and they are hereby authorized to subscribe for as much stock in said company as they may think proper, and to borrow money on the credit of the town, from individuals or banking companies, in order to effect said purposes. The dividend or profit of the stock so held by the town aforesaid, shall go into the Treasury of the town, first to repay the money so borrowed, and next towards lessening the taxes of said town, or making such improvements in the streets, alleys and highways within the town bounds, as may be considered most necessary and useful.

SEC. 14. *Be it further enacted*, That if any person or persons shall, knowingly or wilfully do any act or thing whereby said Railway or any of its buildings or fixtures shall be injured, he, she or they so committing the injury, shall forfeit and pay ten times the amount of the damage so sustained by said company, to be recovered by suit in any Court having jurisdiction of the amount sued for. The tolls which said company shall be allowed to receive, shall be at the rate of eight cents for the carriage of every one hundred pounds, the distance of twenty miles, and in proportion for a less or greater weight or distance, to be diminished from time to time, as the President and Directors of said company may think advisable, and

to be increased, should it be necessary to do so, in order to raise an annual revenue of six per cent on the stock of said company after paying for repairs, &c.

1828.

SEC. 15. *Be it further enacted,* That if any person or persons, shall wilfully set fire to and burn any of the engines or engine houses, or other apparatus belonging to said company, or any part of the same, each and every person so offending, shall, with their counsellors, aiders and abettors be guilty of arson, and on conviction, shall be subject to confinement in the Jail and Penitentiary house of this Commonwealth, not less than one year nor more than five years, to be ascertained by the jury in their verdict.

Punishment for setting fire to and burning any of the engines, engine houses, &c.

SEC. 16. *Be it further enacted,* That should the stockholders in the said company hereby incorporated, (a full majority of the votes taken according to the provisions of this act) concurring therein, determine that it will be most advisable and useful to make a paved road on the M'Adam's plan, in lieu of the Railway hereby provided for, or in addition thereto, along the same route, the said company are at liberty and are hereby authorized and directed to have the same done, and are vested with the same powers, rights and privileges in the effectuation of the latter object, and subjected to the same laws, rules and regulations as are above provided for, in the erection of said Railway or Road, except that of being compelled to leave room on any public Road along which they may find it necessary to run, for carriages, &c. to pass: *Provided however,* That said Railway or Road and M'Adam's Turnpike, if both should be made, shall not exceed one hundred feet in width or more than seventy feet, if only one shall be erected, in addition to the necessary ground for the erection of engine houses and other proper permanent buildings, &c. at such places as may be selected.

Company may at their election make a paved road, or construct a Rail Road, or both.

Proviso.

SEC. 17. *Be it further enacted,* That in case the said company shall make a paved road as above provided, they may erect as many as three gates thereon under the following restrictions; when five miles of the said road shall be completed, one gate; when ten miles shall be completed, two gates; and when the whole of said road shall be finished, three gates. *Provided,* That no gate shall be put up, within less than one mile from the limits of the town of Lexington.

May have a paved road and three gates thereon.

Proviso.

1828.

Treasurer &
other officers
to be appointed.

ton or half a mile from the Kentucky river, nor within less than four miles from each other.

SEC. 18. *Be it further enacted*, That the said President and Directors shall from time to time appoint a Treasurer or Cashier of said company, who shall give bond with security payable to said President and Directors and their successors in office, in such penalty as said President and Directors may deem proper, conditioned for the faithful discharge of the duties to be imposed on him, and the payment of all monies which may come to his hands, under and according to their order, from time to time, and who shall be removed at their pleasure; they shall also have power to appoint such clerks, agents, assistants and gate keepers as may be necessary to effectuate the objects of this act, requiring from the persons so appointed bond with security, for the faithful discharge of the several duties to be imposed on them, under such penalty as they may deem proper, any of which officers may be removed by the said President and Directors, at pleasure.

Officers may
be removed at
pleasure.

No person eligible as a President or Director who is not a stockholder.

SEC. 19. *Be it further enacted*, That no person shall be eligible as a President or Director who is not a stockholder in said Company, and any person elected to either of said offices, shall vacate the same on his ceasing to be a stockholder, and after the first election no share shall confer a right to vote, unless a regular transfer thereof shall have been made, at least three calendar months previous to any election of officers for said Company.

Certificates
for shares to
be issued and
made transferable.

SEC. 20. *Be it further enacted*, That the President and Directors of said Company shall cause certificates of stock to be prepared, and deliver one to each stockholder, specifying the number of shares to which he may be entitled, signed by the President and Treasurer or Cashier, and sealed, which certificate, or any number of shares therein contained, shall be transferable at the pleasure of the holder in person, or by attorney, subject however, to all payments due or to become due thereon. And the assignee holding any certificate, upon complying with the by-laws of the Company, shall be a member of said corporation, and entitled to the same rights, property, privileges and immunities, as if he had been an original subscriber.

SEC. 21. *Be it further enacted*, That the said Company shall have power and are hereby authorized

from time to time, to enlarge or increase the capital stock thereof, by new subscriptions, in such manner and form as they may think proper, if such enlargement shall be deemed necessary to fulfil the intent and objects of this act; the President and Directors shall have power to re-sell, and issue certificates of stock, for all such shares as may be forfeited as herein provided, for such price as can be had therefor, or at their election, cause suits to be brought before a Justice of the Peace, or in any court having jurisdiction, for such installment or installments as remain unpaid; *Provided*, That no stockholder shall be entitled to vote on any occasion whatever, who shall be in default for any portion or installment of his stock.

1828.

Company authorized to increase the stock.

Proviso.

SEC. 22. *Be it further enacted*, That in addition to the mode above prescribed for the assessment of damages, it shall be lawful for the President and Directors, to give notice to any person, whose property may be required, claiming or entitled to a compensation, or damages from said Company or to their agents, and if they cannot agree on the amount, the same may be ascertained by an appraisement, made upon oath or affirmation by thirteen disinterested freeholders mutually chosen, any nine of them agreeing, or by a majority of any less number if the parties consent; and if the owners, occupiers, or their agents, upon three days written notice, shall neglect or refuse to join in the choice, then the said freeholders shall be appointed by any disinterested Justice of the Peace in the county, in which such valuation is to be made; and upon tender of the appraised value ascertained in writing and signed by nine of said freeholders, it shall be lawful for the said President and Directors to open and mark the said road, and to dig, cut, take and carry away any stone, gravel, sand, earth, timber, or other materials most conveniently situated, for making or repairing the said road. *Provided always*, That the freeholders chosen or appointed in either of the ways specified in this act, shall take into consideration the advantages and disadvantages arising to the proprietors of such land, on account of such road; and where no damages shall be assessed, the owner of the land shall pay the costs and expenses incurred by such appraisement, and the Judge or Justice officiating, as the case may be, shall enter judgment accordingly.

Additional mode of assessing damages for land or materials where the parties cannot agree.

Proviso.

SEC. 23. *Be it further enacted*, That the said Pres-

1838.

Power conferred to make aqueducts & bridges.

Persons to be exempt from paying tolls on the road.

Rates of toll allowed said company.

Penalty on persons defrauding the company by evading the payment of tolls.

ident and Directors shall have power to erect permanent aqueducts and bridges over the creeks and water courses, crossed by the said road, and after the said road shall be completed, shall forever thereafter keep and maintain the same in good repair, *Provided*, That if a paved road be made as above directed, no toll shall be demanded or taken from any person, or his servants and labourers, passing from one part of his farm to another, or from militia men, going to or from muster, or courts martial, or from electors on days of general election, or persons going to or returning from public worship, on the Sabbath.

SEC. 24. *Be it further enacted*, That the tolls to be charged on said paved road, shall not exceed the following rates; For every space of five miles in the length of said road, and so in proportion for a greater or less distance, at which gates shall be fixed, to collect toll, or for any greater or less number of hogs, sheep, cattle &c. to wit: For every twenty head of sheep, hogs or other small stock, six and a fourth cents; for every ten head of cattle, six and a fourth cents; for every horse, mule, ass or other four footed animal of the largest kind, except cattle, four cents; for every two wheel pleasure carriage, exclusive of the beasts by which it is drawn and the persons transported by it, eight cents; for every four wheel ditto exclusive of ditto, sixteen cents; for every cart, wagon or other carriage of burthen whose wheels do not exceed three inches in width, twenty-five cents; for every ditto. ditto. whose wheels exceed four and are less than six inches in width, twenty cents; for every such carriage of burthen whose wheels shall exceed six inches, ten cents; always exclusive of the beasts by which they are drawn; for every person, two cents.

SEC. 25. *Be it further enacted*, That if any person or persons owning, riding in or driving any carriage of burthen or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule, or driving any hogs, sheep, or cattle as aforesaid, shall with an intent to defraud the said Company, or to evade any of the tolls or duties aforesaid, pass through any private gate or bars, or along or over any private passage way, or along or over any other ground or land near to or adjoining any turnpike or gate which shall be erected in pursuance to this act; or if any person or persons shall with the intent aforesaid, take off or

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cause to be taken off, any horse or other beast or cattle of draught or burthen, from any carriage of burthen or pleasure, or shall practice any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person and persons, offending in manner aforesaid, shall, for every such offence, forfeit and pay to the President, Directors and Company of the said Turnpike Road, the sum of not less than one, nor more than ten dollars, to be sued for and recovered, with costs of suit, before any Justice of the Peace for the county where the offence happened, in like manner and subject to the same rules and regulations, as debts of equal amount are, or may by law be recoverable.

How recoverable.

SEC. 26. *Be it further enacted*, That if the said Company shall fail or neglect to keep the said road in good repair for the space of ten days, and information thereof shall be given to any two Justices of the Peace for the proper county, such Justices shall issue a precept, to be directed to any Constable, commanding him to summon five disinterested and judicious freeholders, to be named by said Justices, to meet at a certain time, and at the place in said road complained of, to be mentioned in the precept; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said Justices shall at such time and place, by the oaths or affirmation of the said freeholders, inquire whether the said road or any part thereof, is in good repair as aforesaid, and shall cause an inquisition to be made under their hands and seals, and under the hands and seals of the said freeholders; and if the said road shall be found, by the said inquisition to be out of repair, contrary to the true intent and meaning of this act, they shall so certify, and send one copy of the said inquisition, to each of the keepers of the turnpike or gates, between which said defective place shall be; and from thenceforth the tolls hereby directed to be collected at such turnpike or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected; until it shall have been certified by the said freeholders, or a majority of them, that the said defective part or parts of said road, have been put into good and perfect order, and repair as aforesaid; and if any keeper of the gates as aforesaid shall take or attempt to exact tolls, for

Collection of tolls to be suspended in certain cases.

Penalty on Gate keepers.

1828. the intermediate distance between the gates aforesaid, from any traveller during the time the said road shall continue out of repair, or more than is allowed by law at any time, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars for each offence, to be recovered before any Justice of the Peace, as debts of equal amount are by law recoverable.

Circuit court
may indict
fines.

SEC. 27. But if said Road shall not be put in good repair, before the next ensuing Circuit Court for the proper county, the said Justices shall certify and send a copy of the said inquisition to the Clerk of the said Court; and the Court shall thereupon cause process to issue, and bring in the bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said Road as shall be found defective as aforesaid, and shall, in a summary way, enquire into the fact, and enter up a judgment according to the nature of the case, as the Court in their discretion shall judge proper. *Provided* the fine shall in no instance be less than five dollars, nor more than fifty dollars; and the fines so imposed shall be recovered and appropriated as other fines are directed to be by law.

Proviso.

Accounts of
the receipts
and expendi-
tures to be
kept.

SEC. 28. *Be it further enacted*, That the President and Directors, shall cause to be kept a just and true account of all monies received for tolls, transportation, &c. on said road, and after deducting contingent costs and charges, and a reasonable fund for repairs and progressive improvement, shall cause a semi annual dividend of the residue of the profits to be declared among all the stockholders in said Company.

Sign boards
and indexes to
be erected.

Mile posts to
be erected.

Printed lists of
the rates of
tolls to be fix-
ed up at the
gates.

SEC. 29. *Be it further enacted*, That the President and Directors, shall cause posts to be erected at each point of intersection of another road, with boards and an index hand pointing to the direction of such road, shewing the name of the place to which it leads, and the reputed distance; they shall also erect mile stones or posts and cause to be fixed at the several gates, printed lists of the rates of toll; and any person who shall obliterate, pull down, deface or injure, any of said sign posts or boards, mile stones or posts, or rates of toll, shall forfeit and pay to the said President and Directors not less than two, nor more than ten dollars, for each injury so done, to be recovered with costs of suit before a Justice of the Peace.

SEC. 30. *Be it further enacted*, That all wagoners carters and drivers of carriages of burthen, or pleasure, shall, except when passing or overtaking a carriage of slower gait, keep on the right hand side of said road, in the passing direction, and for failing to do so, shall forfeit and pay any sum not exceeding five dollars, to any person who shall be obstructed thereby, recoverable with costs aforesaid. 1828.
Wagons or carriages to be kept on the right hand side of the road.

SEC. 31. *Be it further enacted*, That no suit or action shall be brought or prosecuted for any penalties incurred under this act, unless the same shall be commenced within six months after the fact committed, except the offender by his own act, prevents its being brought within that time. Limitation for bringing actions for penalties incurred under this act.

Approved, February 13, 1828.

CHAP. 160.—An act more effectually to guard the right of suffrage and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That if any person, not a citizen of the state of Kentucky, or who has not resided in this State two years, or in the county where he offers to vote one year, next before he so offers to vote, shall give his vote at any election held in this State, for members of the General Assembly, for Governor and Lieutenant Governor, Electors of the President and Vice President of the United States, or members of Congress, or any of them, or shall vote more than once at the same election for the officers aforesaid, or any of them, shall, for every such offence, forfeit and pay a sum not less than twenty dollars, nor more than fifty dollars, to be assessed and appropriated in manner hereafter provided and expressed. Penalty on persons voting not qualified.

Also, for voting more than once.

SEC. 2. *Be it further enacted*, That if any person being under the age of twenty-one years, shall at any such election, vote for any of the officers aforesaid, every person so offending, shall forfeit and pay a sum not less than ten dollars, nor more than twenty dollars, unless he shall shew upon the trial that he had good cause to believe that he was twenty-one; to be assessed and appropriated as aforesaid. Any person under twenty-one years old, to be fined for voting.

SEC. 3. *Be it further enacted*, That if any person residing in any county in this State, shall vote in any other county than that in which he shall reside for Penalty on persons residing in one county, voting in another.

1828.

any of the officers aforesaid (except in cases expressly provided for by law,) such offender shall forfeit and pay a sum not less than fifty dollars, nor more than one hundred dollars, to be assessed and appropriated as aforesaid.

SEC. 4. *Be it further enacted*, That if any person being not a resident of this State, shall vote at any such election for the officers aforesaid, or any of them, he shall forfeit and pay a sum not less than one hundred dollars, and not more than five hundred dollars, to be assessed and appropriated as aforesaid.

Property bet
on elections
liable to be
seized and the
parties fined.

SEC. 5. *Be it further enacted*, That if any person or persons, shall wager or bet any sum of money or other thing on the event of the election, of any of the officers aforesaid, at any time within six months next before the time of the election, and shall stake or deposite the amount or thing wagered or bet, the same shall be forfeited, and liable to be seized by any civil officer of the Commonwealth, for the use of the same, or to be recovered by the suit of the Commonwealth, or the suit of any person who shall sue for the same in his name, and that of the Commonwealth; he or they offending by betting as aforesaid, shall moreover be liable respectively to pay any sum not less than ten dollars, nor more than twenty dollars, to be assessed and appropriated as aforesaid.

If the bet be
paid, the party
receiving it,
shall forfeit it,
and be fined;
also, the person
losing and paying,
to be fined.

SEC. 6. *Be it further enacted*, That if any person or persons shall wager or bet any sum of money, or other thing, on the election of any of the officers aforesaid, so that the same shall, according to the bet be lost, and received by the winner, the person winning, shall forfeit and pay the sum or thing, so won and received, and a further sum of not less than ten dollars, and not more than twenty dollars; and the person losing and paying, shall also be liable to forfeit and pay a sum not less than ten dollars, and no more than twenty dollars, to be assessed and appropriated as aforesaid.

Penalty for
selling lottery
tickets.

SEC. 7. *Be it further enacted*, That if any person or persons shall vend or sell any Lottery tickets, in any Lottery formed or contrived to be drawn out of this State, within this State, every person so offending, shall forfeit and pay a sum not less than one hundred dollars, nor more than one thousand dollars, for every such offence, to be recovered as aforesaid.

Fines under
this act where
recovered.

SEC. 8. *Be it further enacted*, That all fines and forfeitures incurred under this act may be recovered

in the name, and for the use of the Commonwealth, by suit or action, in the Circuit Court, of the county where the offence shall have been committed, or at the suit or action of any individual who shall first sue in the name of the Commonwealth, and himself, for the same.

1828.

SEC. 9. *And be it further enacted*, That in addition to the remedies aforesaid, that it shall be the duty of any Justice of the Peace of the Commonwealth, to whom complaint shall be made; that any of the offences aforesaid, hath been committed within the county of which he shall be a Justice of the Peace to grant to such informant, a warrant, stating that such complaint hath been made by the informant, in the name of the Commonwealth and informant, for the sum or sums, thing or things demanded, commanding any Sheriff or other officer of his county, to arrest the defendant and to cause him, with twelve good and lawful jurors, to appear before such Justice at a time and place to be stated in said warrant, the said defendant or defendants to defend, and the jurors to enquire into the charge; and upon the appearance of the defendant or defendants, or their default after being duly arrested or summoned, it shall be lawful for the justice to proceed to enquire of the offence or offences charged, by empanneling and swearing the jury as in like cases; and if the jury find the defendant or defendants guilty, they shall further assess and say what he, she or they shall pay according to the provisions of this act; and the Justice thereupon shall award judgment in favor of the Commonwealth and the prosecutor, for the sum or sums or other thing or things found against the defendant or defendants by the jury. *Provided, however*, that the said Justice shall in no case grant such warrant, unless the informant shall, on oath, state that he verily believes that the defendant is guilty of the offence or offences to be charged in the warrant; nor shall the warrant be served during the election, or operate any further than a summons, unless the informant shall further swear that he verily believes that the defendant or defendants, is, or are no inhabitant or inhabitants of the county, and that he, or they will escape or avoid process, unless the warrant is served pending the election, and the defendant is arrested and held in custody until he give bail: In which case, it shall be the duty of the Justice forth-

Further remedy for the recovery of the fines under this act before a justice of the peace.

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with to grant the warrant commanding the officer to take the body, and bring the offender before him as aforesaid; and moreover to endorse upon the same the amount in which the Sheriff or other officer, shall recognize the special bail of the defendant, for the appearance, and abiding by the decision of the Justice as in other cases requiring special bail.

SEC. 10. *Be it further enacted*, That if, for any cause, the jurors do not attend, or the Justice shall not sit, the trial of the cause shall not be defeated, but that the officer shall proceed to fill the pannel by summoning other jurors, and by returning the warrant before some other Justice of the Peace of the county; and shall, in case of any change taking place as to the place and time of trial duly notify the defendant, if within the county, of such change, at least three days before the trial. The Justice or court may grant continuances to either party, for good cause shewn as in other cases.

Parties may
appeal to the
circuit court,
and mode of
proceedings.

SEC. 11. *Be it further enacted* That if either party shall consider himself agrieved by the judgment of such Justice, that the party so agrieved may take an appeal to the Circuit Court of the county where the judgment shall be rendered, at any time within thirty days after the rendering of the verdict and judgment against such defendant by entering into bond, in the Clerk's office, with security, to be approved of by the Clerk, in a penalty at least double the amount of the judgment; or by praying the appeal, and giving the bond at the time of rendering the judgment, to the Justice of the Peace; which appeal so taken shall suspend all further proceedings before the Justice, who shall thereupon transmit a copy of the original papers to the Clerk's office of the Circuit Court aforesaid, and it shall be thereupon the duty of the Clerk to docket the cause for trial; and the same shall proceed and be tried according to the rules prescribed in other cases of appeals to said Circuit Court, from the judgments of Justices of the Peace. *Provided, however, and be it enacted*, That neither the Justice of the Peace nor the Circuit Court shall delay or refuse the trial by reason of informality in the proceedings, but that the parties respectively shall in either case be allowed to so amend their pleading or process, as to obtain a fair and impartial trial of the charges and complaint made against the defendant. *And provided further*, that eith-

er party may challenge peremptorily any number of jurors on the trial before the Justice not exceeding eight. 1828.

SEC. 12. *Be it further enacted*, That it shall be the duty of the party praying the appeal to the Circuit Court, to file with the Circuit Court Clerk a transcript of the record, under the hand of the Justice, together with the statement of the costs before the Justice, on or before the second day of the next Circuit Court to be holden for the county: and on failure to do so, the appellee may file a transcript together with a statement of the costs, and on motion, either try or dismiss the appeal; and in all cases of affirmance or dismissal of any appeal, the Circuit Court, shall enter judgment for the appellee.

Record to be filed with the clerk of the court.

SEC. 13. *Be it further enacted*, That when the penalty or sum or thing recovered, shall in amount or value exceed fifty dollars, the defendant may, at any time within six months, remove the cause into the Circuit Court for trial as aforesaid; but the service of the writ of error shall not operate as a supersedeas unless a Circuit Judge shall so order; and the plaintiff shall, in pursuance of the order of said Judge, execute bond, with sufficient security, to prosecute the writ with effect, or to pay the debt and costs.

Time within which a writ of error may be prosecuted.

SEC. 14. *Be it further enacted*, That if any prosecutor or informer shall commit wilful perjury in any affidavit or evidence, whereby he may obtain a warrant, or whereby he may cause the defendant to be held to bail, besides being liable to the action of the party aggrieved, he or they shall, on conviction of such offence, undergo a confinement in the Jail and Penitentiary of the Commonwealth a period, of not less than three nor more than five years.

Penalty on the informer if he commit perjury.

SEC. 15. *Be it further enacted*, That all fines and forfeitures incurred and recovered under this act where the Commonwealth first sues, shall be paid as other fines and forfeitures are directed, to be applied in the county where the offence was committed. And where the suit is brought, first, by an informer, in his name and that of the Commonwealth, then the one half shall be paid as aforesaid, and the other half shall be paid to the prosecutor.

Fines how appropriated.

SEC. 16. *Be it further enacted*, That in all cases where an informer shall so sue, such informer shall pay all costs of prosecution, as in ordinary cases;

Provision as to costs.

1828.

Prosecutions
by collusion
not to bar
those in good
faith.

Duties of
Com'wealth's
attornies, cir-
cuit courts &
grand juries.

Upon present-
ment by the
grand jury,
the Common-
wealth's at-
torney to pro-
secute.

Limitation to
prosecutions
under this act.

and shall, if judgment go against him, pay the defendant his costs, and if judgment pass against the defendant, recover costs as in other cases.

SEC. 17. *Be it further enacted*, That the person who first in good faith, shall sue for and recover judgment, shall be entitled to the penalty under this act, and no suit or judgment had or contrived to screen the offender from the penalty imposed by this act, shall be available against a prosecution carried on in good faith and without collusion with the defendant.

SEC. 18. *Be it further enacted*, That it shall be the duty of the attornies of the Commonwealth of the Circuit Courts, in all cases, to institute suits for the penalties incurred under this act, wherever they have good grounds to believe the offence has been committed. And the more effectually to guard against evasions, it shall be the duty of the presiding Judge, at the Courts preceding and succeeding any of the general elections aforesaid, to give this act in charge to the grand jury of the county. And it shall be the duty of the grand juries respectfully to make diligent enquiry into all such offences, and to present the same.

SEC. 19. *Be it enacted*, That upon the grand jury making any presentment under this act, it shall be the duty of the attorney of the Commonwealth, to draw a statement, in form, substantially setting forth the charge, and pray process against the offender or offenders: on which the court may, if in their discretion it shall seem proper to do so, order the body to be taken, and held in custody until the offender give special bail, to answer the charge, in a sum to be fixed by the Court; and on the return of the summons or writ, as the case may be; if the defendant make default after being duly summoned, or the verdict shall be against him, the Court shall give judgment for the sum assessed by the jury.

SEC. 20. All fines and forfeitures incurred under this act, may be prosecuted or sued for within twelve months next after the commission of the offence, and not thereafter; and all prosecutions for perjury under the same, within two years after the offence committed, and not afterwards, *provided always*, that in no prosecution for perjury under this act, shall the party; first prosecuted be a competent witness against the accused.

SEC. 21. That in case either party, shall take an

appeal to the Circuit Court, in pursuance of the provisions of this act, and shall not obtain a greater judgment, if he be the prosecutor, or a less judgment, if he be the defendant, than the Judgment before the Magistrate, then he shall pay all costs, incurred by the prosecution of such appeal, and the Circuit Court shall give judgment for such costs accordingly.

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Costs upon appeals.

SEC. 22. *Be it further enacted*, That any candidate, for the office of Governor, Lieutenant Governor, member of Congress, Senator or Representative in the State Legislature, if he be guilty of bribing or treating, whilst a candidate, for the purpose of procuring his election, either directly or indirectly, shall be liable to be indicted by the grand jury, and fined by a jury any sum, not less than two hundred dollars, nor more than five hundred, and the Circuit Courts shall give this in charge, to the grand juries: said fines to be appropriated, as is now directed by law: *Provided, however*, That the person, receiving such bribe or treat, shall in no instance, be a competent witness, against the person accused of such bribing or treating. All acts or parts of acts, coming within the purview of this act, shall be and are hereby repealed.

Penalty upon any candidate for bribing or treating.

Proviso.

Repealing clause.

Approved, February 13, 1828.

CHAP. 161.—An act concerning the Turnpike and Wilderness Road.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of all laws or parts of laws, as authorize the County Courts of Knox, Rockcastle and Madison counties, to appoint commissioners to superintend and keep in repair the Wilderness and Turnpike Road, be and the same is hereby repealed; and in place of the said commissioners, the Governor shall, by and with the advice and consent of the Senate, appoint one surveyor and general superintendant of the said road, in its whole extent from Cumberland Gap to Grassy Lick, in Lincoln county; and also, from the forks of said road at the Hazlepatch, to the foot of the big hill in Madison county, to superintend the working and keeping the same in repair; and for that purpose, the said surveyor and general superintendant shall be, and he is hereby invested with all the power and authority

Laws authorizing comm'rs to be appointed repealed.

A surveyor and superintendant to be appointed.

His powers and duties.

1828.

Proviso as to
the Barbours-
ville road.

Surveyor, &c.
to keep an ac-
count of mo-
ney received
and expended
by him and
place a copy
thereof in the
Auditor's of-
fice.

And report
the improve-
ments made
and necessary
to be made.

To attend per-
sonally to said
road and may
employ assist-
ants.

Persons who
are to work on
said road.

Proviso.

over the funds, tools and implements of said road, and over the laborers employed on said road, and shall be, and he is hereby required to do and perform all the duties and services on said road, which is now possessed by said commissioners respectively, or is enjoined upon them, except so far as is otherwise required and provided by this act: *Provided*, That nothing herein, shall be construed to take from the County Court of Knox county, the power to appoint a surveyor or commissioner to superintend the working of the branch of said road which passes by Barboursville, or to divert therefrom so much of the tolls receivable at the turnpike gate, as are by law appropriated to the same.

SEC. 2. *Be it further enacted*, That it shall be the duty of the said surveyor and general superintendent of said road, to keep a true and faithful account of all monies received from the keeper of the turnpike gate, and of all monies expended by him on account of said road, designating therein the amount of each item of expenditure; and shall, on or before the first Monday in December, in each year, place a copy thereof in the Auditor's office, for the inspection of the General Assembly, having first made oath to the truth of the same, before some Justice of the Peace, and procured a certificate of said oath to be endorsed on said account. He shall furthermore at the same time, lodge with the Auditor, a description of the several improvements made on said road during the year, and suggest such improvements and alterations as he may deem expedient, together with an estimate of the probable cost thereof; it shall be his duty to give his constant personal attention to the working said road, and the other business appertaining thereto, and he may from time to time employ such assistants or foremen, not exceeding three at the same time, as may be necessary, to aid him in superintending the labourers on said road.

SEC. 3. *Be it further enacted*, That all and every person subject to work on public roads, and who may reside within one mile of the said Turnpike and Wilderness road, shall hereafter be compelled to work thereon four days in each year, in the manner now prescribed and subject to the rules, regulations and penalties now provided by law for working on public roads: *Provided*, That hands living on or near to any other public road, crossing or leading off from said wilderness

and Turnpike road, shall not be subject to the requisition of this act; nor shall any person be required to work more than five miles from his residence, and all persons bound to labor on said road shall be exempt from working on any other.

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SEC. 4. *Be it further enacted*, That it shall be the duty of the surveyor and general superintendant to make out a roster of all the persons bound to work on said road, and to note all failures to work on the same when duly required so to do, and he shall cause the law to be enforced against all delinquents; but all persons bound to work on said road by himself or his servants, may commute the same or any part thereof, by paying the said superintendant after the rate of fifty cents per day, for each day's labor so due, at any time before a warrant shall be issued against the person so failing; and all money so received shall be accounted for and appropriated to the working and keeping said road in repair.

Surveyor to keep a roster of the hands; enforce the law against delinquents.

Persons bound to work may pay for the same in money.

SEC. 5: *Be it further enacted*, That the said surveyor and general superintendant, shall have full power and authority to demand, receive, sue for and recover, in his own name, and for the use of said road, all tools, implements and other property, belonging to said road, or which hath been or may be purchased for the use of the same, and he shall cause a list to be made of the same, and all others which he may procure for the same purpose; and he shall be bound to cause all proper care to be taken of all such implements, tools and other property, which may come to his hands.

Surveyor to receive & preserve the property.

SEC. 6. Said surveyor and general superintendant shall remain in office during good behaviour and the continuance of this act; he shall enter into bond in the office of the Secretary of State, with one or more securities, in the penalty of four thousand dollars, for the faithful performance of the duties of his office, according to law; he shall retain out of the monies paid him by the keeper of the turnpike gate quarterly, after the rate of four hundred dollars per year, for his own salary; and he shall pay his foremen the time they are actually employed, not exceeding seventy-five cents per day.

To hold his office during good behavior and execute bond.

SEC. 7. *Be it further enacted*, That it shall be the duty of said superintendant, to keep open and in repair, the old road up the big hill in Madison county, to the intersection of the new road.

Old road to be kept open.

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Surveyor may
purchase carts
and teams.

SEC. 8. *Be it further enacted*, That it shall be the duty of the superintendant, to purchase for the use of said road, such teams of oxen and carts as may be necessary for the working of said road.

Approved, February 13, 1828.

CHAP. 162.—An act appointing commissioners to settle with William Holman, late agent of the Penitentiary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor and Treasurer, are hereby appointed commissioners to settle the accounts of William Holman, who was appointed as agent to sell the articles manufactured in the Penitentiary; and upon the said Holman's accounting for all articles sold as directed by law, and paying the amount of said sales into the treasury, they shall allow him such compensation for the same as he may be entitled to according to law, upon his exhibiting his account upon oath for the same.

Approved, February 13, 1828.

CHAP. 163.—An act to authorize the 75th and 121st regiments to hold a Court of Appeals, and to regulate the fines of said regiments.

WHEREAS, the 75th regiment of militia was divided in the year 1826, so as to constitute the 75th and 121st regiments, and it is represented that no Court of Appeals for the assessment of fines, was held in that year, in consequence of said division.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Judge Advocate of the 75th regiment, to furnish the Colonels of each of the said regiments with a list of the fines for said year, within the bounds of their regiments respectively; and it shall be the duty of the said Colonels, each to hold a Court of Appeals, for the purpose of adjudicating on the fines assessed in the year 1826, against individuals residing within the bounds of their regiments; it shall be the duty of the commandants of said regiments, each to list with the Sheriff of his county, the fines so assessed for the use of the regiment: All fines assessed previous to the year 1826, and not expended, shall be equally di-

vided and paid over to the Paymaster's of said regiments respectively.

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Approved, February 13, 1828.

CHAP. 164.—An act to authorize the County Court of Gallatin to appoint Inspectors of Tobacco.

WHEREAS, there is a warehouse in Gallatin county, on the Kentucky river, known by the name of Jones' warehouse, and that said warehouse is within one half mile of the Henry county line, and that it would be a matter of convenience to enable the County Court of Gallatin county, to appoint two fit persons, Inspectors at said warehouse, who reside in the county of Henry: For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the County Court of Gallatin county, is hereby authorized and empowered, to appoint two of the Inspectors of tobacco for said warehouse, who are residents of Henry county, who shall qualify and give bond in the Gallatin County Court, in the same manner as if they were citizens of Gallatin county.

Approved, February 13, 1828.

CHAP. 165.—An act for the benefit of the heirs of Peter Tichenor and Hatzell Jennings.

WHEREAS, it is represented to the General Assembly, that Peter Tichenor some years ago departed this life, and at his death he left eleven children, seven of whom are yet under age; that he owned and on which he resided at his death, a tract of land on Plumb creek, in Nelson county, containing one hundred and three and a half acres; that at his death he was much in debt, and that all his property, exclusive of the tract of land aforesaid, was insufficient to pay his debts, and his land must have been taken and sold; to prevent which, his widow and administratrix, by the consent of the heirs who are of age, and the brothers of said Tichenor, sold said land for a full price, but it is apprehended said sale is not good in law, and to remedy that inconvenience:

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That upon the said administratrix and widow of the said Peter Tichenor

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exhibiting her bill in the Nelson Circuit Court against the heirs of said Peter Tichenor, and the purchaser of said land, praying for a confirmation of said sale, and if the purchaser shall consent to the same, and further if the court shall be satisfied that the debts against the estate of said Tichenor made the sale of the land necessary, and if the court shall be further of opinion that the land has been sold for a fair price, to decree a confirmation of the sale, and such other things to be done as is necessary to carry the sale into effect.

SEC. 2. *Be it further enacted*, That after the debts are paid, should there remain any part of the price of said land to be distributed among the heirs, that the widow and administratrix shall make distribution to those heirs who are of age; and as to those under age, to give bond and security to make distribution of their shares, with the interest thereon, when they shall severally come of age.

AND WHEREAS, in May, 1826, Hatzel Jennings, of Nelson county, purchased of Stephen May one hundred and sixty acres of land, for the sum of \$1280, of which sum he paid \$400, and shortly after got killed by a horse, leaving \$880 unpaid; that the payment of said sum of money out of the personal estate of said Jennings, will leave nothing for the support and maintenance of his children, who are infants, and nine in number: For remedy whereof,

SEC. 3. *Be it enacted*, That the administrators of said Jennings be and they are hereby permitted to exhibit their bill in the Nelson Circuit Court against the heirs of said Jennings; and if the court shall be satisfied that the debts of the estate are such as to make the sale of the land necessary, to save the personal estate for the support of the family, to order and decree a sale of said land upon such credit as shall be deemed most advisable, taking bond and approved security of the administrators, to apply the proceeds of the sale, first to discharge the debt due for the land, next in the regular course of paying debts as prescribed by law, and lastly to make distribution of the residue of the money, if any there be, in the regular course as prescribed by the statute of distributions.

Approved, February 13, 1828.

CHAP. 166.—An act for the benefit of John Jones, Justice Huffaker and Rhodes Garth.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of public accounts issue his warrant on the Treasurer in favor of John Jones, Justice Huffaker, and Rhodes Garth, for the sum of fifty dollars; which sum the Treasurer is directed to pay to the persons entitled thereto in Commonwealth Bank paper.

Approved, February 13, 1828.

CHAP. 167.—An act restraining and defining the power of Judges in cases of contempt.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That no court or Judge of any court shall proceed by process of contempt, against any person who shall, by words or writing, animadvert on or examine into the proceedings or conduct of such court or Judge, by words spoken, or writing published, not in the presence of such Judge or court, nor on the public grounds, or in the court house during the sitting of the court. *Provided however,* That nothing in this act shall be so construed as to prevent any court, or Judge thereof, from proceeding against any person, uttering or publishing such libel or slanderous words, by indictment, suit or presentment; nor to prevent any court or Judge setting as a court, from punishing contempts offered them while acting, either by interrupting the business of such court or Judge, or for failing to obey any order or judgment, or process of such court, or Judge of a court.

Approved, February 13, 1828.

CHAP. 168.—An act for the benefit of Selah Warder and children.

WHEREAS, it is represented to the General Assembly, that Moses Moss, deceased, by his last will and testament, devised to his daughter Selah Warder, the sum of four hundred dollars in cash, and an equal portion of the residue of his estate, directed to be sold by his executors, and devised the same in trust to his executors, for the use of said Selah Warder and

1828. her children; and that said Selah hath a large family of small children to support, without a home for them; and that she, together with Kendall Moss, the executor, who hath qualified, hath petitioned this General Assembly for power to appropriate a part of said devise to the purchase of a farm, which is believed to be for the benefit of said Selah Warder and her children: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said Kendall Moss be, and he is hereby authorized to purchase a farm for the use of said Selah and her children, taking the title to himself in trust, for the use and benefit of said Selah and her children, for and during the natural life of said Selah, and then to pass to her children, in pursuance of said will; and any sum of money thus bona fide paid by said executor, shall be credited to him in the settlement of his accounts as executor as aforesaid.

Approved, February 13, 1828.

CHAP. 169.—An act to punish shooting or stabbing in sudden affrays.

shooting or
stabbing in a
sudden affray
punished by
fine and im-
prisonment.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That if any person shall hereafter, in a sudden affray, or in sudden heat and passion, without malice aforethought, shoot at another person with a gun or other instrument loaded with a leaden bullet or other hard substance, and thereby wound any person whatever, without killing, or shall cut or stab any person with a knife, dirk, sword or other deadly weapon, who dies not thereof, every such person so offending shall be held and deemed guilty of a high misdemeanor, and shall be punished by fine and imprisonment, in the jail of the county where said offence is committed, at the discretion of the jury which finds the offences charged, unless the said wounding, cutting or stabbing shall be done in self defence. *Provided,* That the trial for every such offence shall be in the Circuit Court of the county where the offence is committed, upon an indictment of a grand jury: *and provided also,* that no person so offending shall be fined in a greater amount than five hundred dollars, nor shall be imprisoned for a longer time than one year. Nothing in this act shall be construed to alter the punishment now affix-

Provided.

ed by law to any felonious shooting, cutting, stabbing, thrusting or wounding.

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Approved, February 13, 1828.

CHAP. 170.—An act to amend the Penal Laws.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That when any person shall hereafter be convicted of the crime of perjury, burglary, arson, rape, robbery, manslaughter, forgery or larceny, above four dollars, and where the jury shall find at the same time from record, and other competent evidence, that the person so convicted has heretofore been convicted of any of the felonies enumerated in this act, either in or out of this State; the court shall cause the verdict to be entered upon the records, and shall, when pronouncing sentence, give judgment of confinement in the Penitentiary, for double the term of time so found by the jury in that particular.

Persons convicted of felonies a second time how punished.

SEC. 2. *Be it further enacted,* That when any person shall be so convicted a third time, of a felony, the two former convictions to be ascertained by record and other competent evidence, the jury shall fix the term of his confinement for the life of such offender.

Upon a third conviction to be confined for life.

Approved, February 12, 1828.

CHAP. 171.—An act to remove the seat of justice of Oldham county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the first day of March next, the seat of justice of the County of Oldham shall be, and the same is hereby removed from La Grange, the place fixed on by the County Court of Oldham, to the public square in the town of Westport in the county of Oldham on the Ohio river; and the County Court of Oldham county shall, as soon as practicable, cause the necessary public buildings to be erected on the public square in the town of Westport, and whenever a court house shall be erected, suitable for the Circuit and County Courts, to transact their business in, the County Court of Oldham county shall cause a notice to be

Seat of justice removed.

Duty of the county court.

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The courts to be held at Kemper's until the buildings are erected.

given to the Circuit Court for said county, that such building is ready for their use; and the Circuit and County Courts for said county, shall thereafter be holden in said house; and until such notice shall be given, the Circuit and County Courts for Oldham county, shall at the several terms appointed by law, sit and be holden in the house of Joel Kemper in the town of Westport.

Approved, February 13, 1828.

CHAP. 172.—An act to incorporate the City of Louisville.

Boundaries of the City of Louisville.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the inhabitants within that part of Jefferson county, beginning at the stone bridge over Bear-grass creek, near Guiger's mill, thence on a straight line to the upper corner of Jacob Guiger's land, on the Ohio river, and thence by a straight line down the Ohio river, so as to include Corn island and the stone quarry adjacent thereto; and thence by a straight line to the upper boundary of Shippingport, where it binds on the river Ohio; thence with the upper boundary of Shippingport to the back line thereof, and the same course continued until it intersects the back line of the town of Louisville, when extended westwardly far enough to meet the said line extending out from the river, with the upper boundary of Shippingport; thence from the said intersection to the south or back line of the present town of Louisville, and with the said back line to the south fork of Bear-grass creek; thence down the middle thereof, to the beginning, at the centre of the stone bridge aforesaid, shall be incorporated as a city by the name and style of "The City of Louisville," and shall be a body corporate and politic forever; possessing the power to sue and be sued, to contract and be contracted with, by the name and style of the City of Louisville, and to have and use a common seal, and the same to alter and amend at pleasure; and the said corporation shall have jurisdiction over so much of the river Ohio, as lies opposite said City, and not within the boundaries aforesaid, so far as to authorize the execution of process thereon, but not otherwise.

Incorporated and style of incorporation Corporate laws.

Partial jurisdiction given said city over the Ohio river.

SEC. 2. *Be it further enacted,* That the fiscal, prudential and municipal concerns of the said City, with

the government and control thereof, shall be vested in one principal officer, to be called the Mayor, and one City Council, consisting of ten persons, to be nominated the Board of Councilmen, who shall be elected, for the first time, on the first Monday in March next, in the way that the trustees of Louisville are now elected; and the Councilmen shall hold their offices for one year, and until their successors shall be duly elected and qualified; and the Mayor shall hold his office for one year, and until his successor shall be so elected and qualified; all of whom shall have resided in said city two years next preceding the election, and be citizens of this State.

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Management and control of the concerns of said City, vested in a Mayor and City Council, to be annually elected by the inhabitants.

Qualifications of Mayor and City Council.

SEC. 3. *Be it further enacted*, That it shall be the duty of the Mayor and Councilmen that shall be first elected under this act, to lay off the said city into five wards, for the purposes herein named, as nearly equal as possible as to number of inhabitants, improvements and permanent boundaries; each of which wards to be entitled to elect two Councilmen, to be members of the Board of Councilmen: and it shall be the duty of the said Mayor and Councilmen, from time to time, to alter the boundaries of the wards so as to equalize the number of inhabitants in each as nigh as may be; but such alteration shall not be made, except on a general census of all the inhabitants being previously taken.

City to be laid off into five wards by the Mayor and Councilmen.

Each ward to be entitled to two Councilmen.

SEC. 4. *Be it further enacted*, That on the first Monday in March in each year succeeding the first election, the free white male inhabitants of said city, who at the time being are inhabitants of said city, and qualified under the constitution to vote therein for members of the House of Representatives, and who shall have bona fide resided therein for the space of six calendar months previous to the time of holding the election at which they claim to vote, shall meet in the wards in which they respectively reside, and vote for the Councilman or Councilmen such ward shall be entitled to elect, and for a Mayor; and it shall be the duty of the Mayor and Councilmen previously elected to cause an alphabetical list of the qualified voters in each ward to be made out ten days before the first Monday in March in each year, and to appoint three suitable persons in each ward, as inspectors of the election, and to furnish them with a list of voters, and a warrant directing them or a majority of them, to hold the election in the same

Elections for Mayor and Councilmen to be held in March annually.

Mode of conducting elections.

1828.

manner as other elections are held in this State: notice of the time and place of holding the elections in the respective wards shall be published in one or more of the public newspapers printed in said city, with the names of the ward inspectors: the election shall be held during the same hours, to be directed by the Mayor and Councilmen, in all the wards. The said inspectors shall exhibit to all persons claiming the same, the list of the qualified voters in their wards respectively; and on closing the polls at the hour mentioned in their warrant, they shall declare the same, and the two persons having the highest number of qualified votes, shall be declared as duly elected Councilmen in each ward. The votes given in for Mayor shall be added up by the inspectors, and returned by them to the clerk of the Board of Mayor and Councilmen, with the list of the polls for Councilmen; which list shall be certified by a majority of said inspectors, and sworn to as just and true returns of the election, which oath shall be administered by the Mayor or any Justice of the Peace. The returns of the votes so made shall be received by the said clerk, and duly recorded in a book to be kept for that purpose: and it shall be the duty of the Mayor and Councilmen to add up the votes from the several wards for Mayor, and the person having the highest number of votes, shall be declared to be duly elected as Mayor of said city, for one year from the time of his election, and until a successor shall be so elected and sworn into office. And the Mayor and Councilmen thus elected shall be notified immediately of the same, by the clerk of the city then in office.

SEC. 5. *Be it further enacted*, That the Mayor and Councilmen of said city shall enter on the duty of their respective offices on the second Monday in March in the year in which they are elected; and before entering on the duties of their respective offices, shall each be sworn to support the constitutions of the United States and of this State, and that they will well and truly discharge the duties of the Mayor or of a Councilman of said city; which oath may be administered to the Mayor elect by any Judge of any court of record in this Commonwealth, or by any Justice of the Peace for the county of Jefferson; and the Mayor, after he is sworn into office, shall administer the said oath to each of the Councilmen, and

Oath of office to be administered to the Mayor and Councilmen, before entering on their offices, and recorded.

an entry shall be made on the records of the board that said oaths have been duly administered.

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SEC. 6. *Be it further enacted*, That the Mayor and Councilmen thus chosen and qualified, shall form one board, and shall sit and act together as one body; and at all meetings the Mayor, if present, shall preside, but in his absence, the board may elect a chairman for the time being. The said board shall choose a clerk, who shall be sworn to the faithful discharge of the duties of his office, which he shall hold for one year, and until another shall succeed him, removable, however, at the pleasure of the board, and shall be denominated "the clerk of the city;" whose duty it shall be to keep a journal of the proceedings of the board, to sign all warrants issued by them, and to do all acts in his said capacity that may be reasonably required of him; and to deliver over all books and papers entrusted to him, to his successor in office, immediately on such successor being chosen and qualified, or whenever he shall be thereto required by the Mayor and Councilmen. In all meetings of the board, five Councilmen, with the Mayor, or in the absence of the Mayor six Councilmen, shall constitute a quorum to do business, except in the cases of levying the taxes or the election of any officer of the city government, in which cases at least eight Councilmen shall be present, and not less than five vote in the affirmative. The board shall meet in some public place to be provided for that purpose, and their deliberations and acts be public. The Mayor of said city shall be the chief executive officer of said corporation, and shall be compensated for his services by a salary, payable quarterly, to be fixed by the Board of Councilmen, exclusive of the Mayor, which shall not be increased or diminished during his term of office, and to be exclusive of all fees he may receive for certifying documents of a public or private nature which he may be called on to execute in his official capacity. He shall have the powers of a Justice of the Peace of the county of Jefferson over slaves and free negroes, and the powers of a Justice of the Peace to require surety for good behavior, and for the peace, and in all matters of penalties for a violation of the laws of this Commonwealth and the ordinances of the City Council: and as to committing criminal offenders and sending them on for trial, he shall have the powers of two Justices of the

Mayor and Councilmen to form one body in which the Mayor shall preside.

To choose a city clerk annually.

His duty.

Number required to constitute a quorum to do business.

Sittings of the board to be public.

Mayor's salary to be fixed by the Councilmen.

Powers delegated to the Mayor, and the duties assigned him.

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Peace, but shall not have or exercise any judicial authority in civil matters. It shall be his duty to be vigilant and active at all times in causing the laws and ordinances of said city to be duly executed and put in force, to inspect the conduct of all subordinate officers thereof, and as far as is in his power to cause all negligence, carelessness and positive violation of duty to be duly prosecuted and punished. He shall have power to summon a meeting of the board of Aldermen, at any time and so often as he may deem advisable, notwithstanding they may have adjourned to a more distant day. He shall preside at all meetings of the board, except in the case before mentioned, and in case of a tie on any question, shall give the casting vote, but shall not otherwise have a vote in the board. It shall be his duty, from time to time, to communicate to the Board of Councilmen all such information and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort and ornament of said city.

Mayor and Councilmen vested with all the powers of the present trustees of Louisville, &c

SEC. 7. *Be it further enacted*, That the Mayor and Councilmen, shall have and possess all the powers and authority heretofore vested in the trustees of Louisville, either by the general laws of this Commonwealth, or the particular laws now in force in respect to the town of Louisville, with power and authority to adopt the by-laws and ordinances of said town, and the same to repeal, alter and amend, as to them shall seem best, and with full power and authority to pass such by-laws and ordinances, with adequate penalties, as they shall from time to time deem expedient for the government of said City, not contrary to the constitution or laws of this or of the United States. The said Mayor and common Councilmen shall have the power and authority, to appoint and employ as many watchmen, either for the day or night, as in their discretion they shall judge best for the safety and advantage of the city; and such watchmen shall be conservators of the peace, and vested with power to apprehend all felons, gamblers, rioters, breakers or disturbers of the peace, vagrants, persons of evil fame and riotous, disorderly conduct, and carry them, with such evidence as they may possess, before the Mayor or some Justice of the Peace, to be dealt with according to law; and if such apprehension is in the night, then to the watch-

May appoint watchmen.

Powers and duty of the watchmen.

house for safe keeping until morning; they shall also be vested with the power and duties of patrollers.

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SEC. 8. *Be it further enacted,* That the Mayor and Councilmen may receive conveyances, or the consent in writing, of the proprietors of lots or lands within the city, for the purpose of locating new streets or alleys, or extending any of the streets or alleys of said city, to the limits thereof; and on receiving the same, may direct such streets or alleys to be extended or opened, and when they shall deem it proper to have any new street or alley opened, or any of the streets or alleys of the said city extended in part or to the limits thereof, to petition the Jefferson Circuit Court, stating the street or alley, they wish opened or extended, and the names of the owners, if known, of the lots and lands through which they desire to have such street or alley opened or extended, and the width thereof; and thereupon, said court shall order a summons to issue for such owner to appear on some convenient day of that or some subsequent term, to shew cause why such street or alley should not be opened or extended, which summons shall be executed on such owner if in the county, if not, on his agent if one is known, and on the return of the summons executed, or the return of no inhabitant or known agent, and no one appearing, the court shall order the street or alley to be opened or extended; and if any one or more of such persons shall appear, they shall have a right to claim a writ of *ad quod damnum*, which the court shall award to the proper officer, to be executed as other writs of that nature for opening roads, and on the return of the writ executed, the court shall order the Mayor and common Councilmen to pay the damages assessed, and shall order the street or alley opened or extended. The Mayor and Councilmen shall have full power and authority, to cause all streets or alleys to be opened and cleared of all obstructions, by the infliction of suitable fines and penalties.

Mayor and Councilmen authorized to open new streets and alleys, or extend the present ones.

Circuit Court of Jefferson authorized upon application, to order streets or alleys to be opened or extended.

Owners of ground entitled to writs of *ad quod damnum*.

Damages to be paid out of the city funds.

Mayor and Councilmen to keep the streets and alleys open, &c.

SEC. 9. *Be it further enacted,* That the Mayor and Councilmen shall have full power and authority to cause and procure all the streets and alleys in said city now established or hereafter to be established, to be paved or turnpiked at the cost and expense of the lot owners fronting such street or alleys, and a petition in writing of a majority of the owners of lots or parts of lots, or of the owners of a greater part

May order the streets and alleys to be paved by the owners of lots fronting thereon.

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Proviso.

Lots may be sold by the town collector for the expense of paving.

But may be redeemed by the owners

Proviso.

Mayor and Councilmen authorized to have the side-walks paved, under same regulations as the streets and alleys.

And to have the streets and alleys levelled and graduated for paving, at the expense of the owners of lots.

A lien given on the lots for the expenses thereof, and the lots subject to sale therefor.

of the lots fronting on any square, shall be sufficient to authorize a contract for the paving or turnpiking the street or alleys in such square: *Provided however*, That the Mayor or Councilmen, by their unanimous consent in Council, may cause any street or alley in any square in said city, to be paved or turnpiked, at the cost and expense of the owners of lots and parts of lots fronting such street or alley, without any petition or consent, and when the paving or turnpiking shall be completed, they shall apportion the costs and expense equally on the lot holders, and a lien is hereby given on the lots and parts of lots for the same, which costs and expense may be listed and collected as other taxes, by the city collector, and who shall have authority to sell and convey the lots and parts of lots for the same, under the by-laws and regulations of the Mayor and Councilmen: *Provided also, however*, That the owner of any lot or part of a lot, sold for paving or turnpiking, who has not consented in writing for that purpose, shall have five years to redeem the same, on paying the purchase money with ten per centum interest per annum, with all the taxes and levies that may have subsequently accrued, and those who have consented in writing may redeem at any time within one year, on the payment of the like interest: *Provided*, That infants shall have one year after arriving at full age, on like terms.

SEC. 10. *Be it further enacted*, That when any street in any square shall have been paved or turnpiked, the Mayor and Councilmen shall have power and authority to cause and procure the side walks to be paved with stone or brick, and to apportion the costs and expenses on the owners of lots fronting thereon, and a lien is given on the lots for the same; and the Mayor and Councilmen shall have the like authority and power, to cause and procure the streets and alleys now established, or hereafter to be established within said city, to be filled, levelled and graduated, for the purpose of carrying off the water, or preparatory to paving or turnpiking, at the cost and expense of the lot owners fronting the same, and a lien is hereby given on the lots or parts of lots for such cost and expense, and the costs and expense accruing under the provisions of this section, shall be listed and collected in like manner and as that for paving and turnpiking, and the collector shall have the like authority

to sell and convey the same as is provided for in the previous section, and subject to redemption in one year from the day of sale, by paying twenty per centum interest thereon.

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SEC. 11. *Be it further enacted*, That the Mayor and Councilmen of said City, shall have and possess the power herein after mentioned. First: to purchase, hold and sell real estate, within the limits of said City; also, to purchase, hold and sell personal property and stock, in incorporated companies. Second: the said Mayor and Councilmen, shall have the power, to borrow money on the credit of the corporation, and pledge any of the corporation property, for the redemption of the same, or to pledge any part of the future taxes of the City, for the payment of the interest, on said loan: *Provided*, That the interest paid, in no case shall exceed six per centum per annum, and that the amount or sum borrowed, in any one year, shall not exceed the sum of twenty-five thousand dollars. Third: they are authorized and empowered, to appoint inspectors of flour, tobacco, whiskey, beef and pork, butter and lard, for exportation, to provide against fraud therein, and to make such by-laws, as shall be needful, to carry the same into effect, and to punish breaches thereof. Fourth: they are vested with the power and authority, to appoint a health officer, to establish regulations, which may be necessary and proper, to prevent the introduction of the small pox; and to eradicate such disease, when it shall have made its appearance, in said city: *Provided*, That nothing herein, shall be construed, to give any power to establish regulations, inconsistent with the constitution and laws of the State, or to prevent the Legislature, from changing, by law, any regulations which may be made, by said corporation, on this subject, or in relation to inspections. Fifth: they shall have the power to organize, a fire department, for the extinguishment of fires, that may happen within said city, to provide engines and other apparatus for that purpose, and to appoint a suitable number of able bodied men, not exceeding twenty to each engine, who shall be exempted from serving on juries, and doing militia duty in time of peace, during the time that they are attached to such engine; the engine men to be appointed for any term, that the Mayor and Councilmen shall ordain, and be discharged by them at pleasure, and the said Mayor

Powers delegated to the Mayor and Councilmen.

Proviso.

To appoint inspectors of tobacco, flour, &c. and to regulate their duties.

To appoint a health officer, &c.

Proviso.

To organize a fire department provide engines, &c.

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To prohibit
the erection of
wooden build-
ings, &c.

To erect suit-
able buildings
for a poor and
work house,
and to make
regulations
concerning
the same.

What descrip-
tion of persons
to be placed
therein, and
regulations
concerning
them.

May levy and
collect taxes
on real and
personal prop-
erty and
stores.

and Councilmen, shall make all necessary by-laws, to punish any inhabitants of said city, for non-attendance, or disorderly or improper conduct, during the time of a fire. Sixth: the said board, shall have the power, with the concurrence of three fourths thereof, to prohibit the erection of buildings of wood, or to regulate the size and height of such buildings, in any part of said city, whereby great danger may ensue, to valuable and permanent improvements, and enforce the observance of the same, by fines and penalties. Seventh: they shall have the power, and it shall be their duty, to erect or procure a suitable building or buildings for a poor-house, and work-house, in which the indigent poor, shall be comfortably provided for, at the expense of said corporation, to be regulated and managed by suitable persons, to be appointed by the Mayor and Councilmen, for that purpose, and in apartments distinct from the infirms and indigents; provision shall be made for confining common beggars, vagrants, and all persons who may be sentenced for short periods of confinement, by Justices of the Peace within the city, or by the Mayor for breaches of the peace, or for petty offences, where they shall be employed in such labour, and made to perform such tasks, as shall be directed by the ordinances of the Mayor and Councilmen; persons committed to the work-house, shall be sent there by warrant, either of the Mayor or Justices of the Peace as aforesaid, and discharged by the overseer, on the expiration of the time for which they were sentenced, or sooner by the Mayor, if in his opinion, they have so conducted themselves as to merit it. A committee of the board of Councilmen, or special overseers of the poor, to be established by the board, who shall place poor persons in the poor-house at their discretion, but the whole establishment shall be under the control, and immediate care, and subject to the frequent visitation of the Mayor and Councilmen; all by-laws and ordinances, to carry this article into effective operation, not repugnant to the laws of this State, or of the United States are to be made and enforced by said corporation. Eighth: the said Mayor and Councilmen, shall have the power and authority to assess, levy and collect taxes, on such real and personal estate, as they may designate in that part of the city, which composes the present town of Louisville, to the third cross street of Pres-

1828.

ton's enlargement; but such taxation shall be uniform on every description of property assessed. They shall also have power and authority, to cause all stores within the city, to be rated first, second, and third rate, and levy and collect a tax on each, not exceeding forty dollars per year, and when stores are taxed, according to their rate, the goods therein shall not be valued, and included in the assessments of property for taxation. They shall also have a right to license and tax all taverns, grocers, victuallers, confectioners, retailers, and houses of public resort, except gambling houses or houses of ill fame, within said city, but tavern keepers shall also be liable to pay the revenue tax of ten dollars: they shall also have the right to license and tax all exchange or broker's offices within said city, in any sum not exceeding forty dollars, and all lottery offices, in any sum not exceeding five hundred dollars: they shall also have power and authority to pass by-laws and ordinances, with adequate penalties, for the enforcement of the powers vested by this section. Ninth: the said board of Mayor and Aldermen, shall appoint one city assessor annually, and two assistants, if deemed necessary, who shall take in a list of all the taxable inhabitants within said city, separately in each ward, and affix against each the amount of his, her or their real estate, within the present town of Louisville, to the third cross street of Preston's enlargement, and also the true and just value of such personal estate, of each of said inhabitants, whether in goods, stocks, boats, manufactories or other property that may be designated for taxation, by said Mayor and Aldermen, which list shall be made on the oath of the party, or if the party refuse to give in a list, and swear to the same, the amount shall be ascertained from the best information such assessor possesses, and in each of the several wards of said city, the said lists shall be extended to include all free males over twenty-one years of age, slaves over sixteen, and those under that age with the value of each, taverns, groceries, victuallers, retailers, confectioners, and houses of public resort, except gambling houses or houses of ill fame, hacks, drays, carts, wagons and porters plying within said city for hire; and when said lists shall be completed, and returned to the board of Mayor and Councilmen, they shall give a reasonable notice, that any inhabitant of said

May license & tax taverns, grocers, &c.

And pass by-laws, &c. for the enforcement of those powers.

Assessors to be annually appointed, to take in lists of persons and property subject to taxation and the duty.

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Assessors to return the same to the Mayor and Councilmen, who are authorized to change the valuation, if too high.

The Mayor and Councilmen to lay & levy an ad valorem tax thereon, upon estimates to be furnished by the Mayor.

Proviso:

And may also levy and collect a poll tax.

Mayor and Councilmen to appoint collectors of the city tax & remove them from office.

Collectors to give bond.

Liable to motion by the corporation for failing to collect or pay over money collected, &c.

city, may examine the same, and if any one should feel aggrieved thereby, in an excess of valuation, application may be made to the Mayor and Councilmen, and on proof being made to their satisfaction, the valuation may be changed; *Provided*, the application is made within the time which may be prescribed by them, after which time no abatement or change shall be made, when the time in said notice shall have expired: The Mayor and Councilmen shall proceed to lay and levy the taxes for the current year from estimates previously submitted to the board by the Mayor, and to procure the amount of said estimates for the particular uses of that part of the city, embraced within the present town of Louisville, to the third cross street of Preston's enlargement; they shall levy the amount thereof, on real and personal estate, as returned from the said town and enlargement, in an ad valorem tax thereon, as near as may be, provided the same shall not exceed forty cents on each hundred dollars on such valuation; and for the general expenses of said city government, such as the police salaries, the support of the poor, and all charges for the well governing and ordering of said city throughout, the estimate shall be presented by the Mayor; a tax shall be levied on each free male of twenty-one years of age, and upwards, except paupers inhabiting said city, and all slaves found within said city over sixteen years of age, at a rate not higher than one dollar and fifty cents each, and when the said tax is made out and fixed, as is herein provided, bills shall be placed in the hands of a collector or collectors, to be appointed by the Mayor and Councilmen, with their warrant to collect the same; the power of the collector or collectors of the city tax shall be the same, as to distraining, advertising and selling property as is now granted by law, to the collector of Louisville; bond with good security in an adequate penalty shall be taken, payable to the city of Louisville, and he, or they, shall be removable at the pleasure of the Mayor and Councilmen; the city collector and his securities shall be liable to judgment by motion in the Jefferson Circuit Court, for failing to collect and pay over any sums put in his hands for collection at the time stipulated, with ten per cent interest, and costs, and five days notice of such motion shall be sufficient, and there shall be no re-

plevin or valuation of property on executions issuing on such judgments, a lien shall exist on the real estate and slaves of such collector and his securities, for the payment of all sums placed in his hands for collection. Tenth: no Theatrical or other show or exhibition, lecture, or performance of any kind for money shall be opened or held within the boundaries of said city, unless the same shall be licensed by the Mayor and Councilmen, and they shall have the power of taxing the same, according to the magnitude thereof, and to pass by-laws and ordinances, regulating the same. Eleventh: the Mayor and Councilmen shall have the power to erect and procure one or more suitable buildings as powder magazines, to provide suitable carriages for the conveyance of gun powder, and to pass by-laws to prohibit the introduction of gun powder into said city, with penalties for breach thereof, in addition to the forfeiture of the powder so introduced. Twelfth: the Mayor and Councilmen shall have power and authority to establish one or more free schools in each ward of said city, and may receive donations of real and personal estate, to erect the necessary buildings, and to provide the necessary revenue for their maintenance, and may supply the funds from time to time, by a tax on the ward, where such school or schools shall be established.

SEC. 12. *Be it further enacted,* That the Mayor of the said City shall have the same power and authority to take the acknowledgement of deeds and powers of attorney, and to take the privy examination of feme coverts and certify the same, that the clerks of the several County Courts have within this Commonwealth, and his certificate shall authorize the recording thereof, in like manner, and he shall have, and be entitled to receive a fee of fifty cents for each certificate so made. He shall also have power and authority to examine witnesses under dedimusses from any court within this, or any of the United States or foreign country, and shall be entitled to receive a fee of one dollar, for each witness so examined, and in all cases where he shall affix the seal of the Corporation to any document by request, he shall be entitled to receive the sum of one dollar.

SEC. 13. *Be it further enacted,* That the Circuit Court of Jefferson county, shall have jurisdiction to try vagrants within the said city; who shall, if con-

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Theatrical & other performances, shows and other exhibitions prohibited, without being licensed by the Mayor and Councilmen.

Mayor and Councilmen may erect powder magazines, &c.

Establish one or more free schools in each ward &c.

Mayor authorized to take acknowledgement of deeds, powers of attorney &c. to take depositions &c.

Fees allowed him.

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Vagrants or persons convicted of violating the laws of the city, may be confined in the work-house, until their fines are discharged.

Slaves found hiring their own time may be confined therein.

Fines for breaches of the peace, riots, and disturbing religious worship to be assessed by a jury.

Title to real estate held in trust for others by the present trustees, vested in the Mayor & Councilmen, subject to the same trust.

By-laws and ordinances of the city to be recorded and published in the newspapers &c.

Councilmen to fill vacancies in the office of Mayor from their own body until a new election for a Mayor for the remainder of the term.

victed, be sentenced to labour in the city work-house, for a period not less than three, nor more than six months, to be ascertained by a jury, and all persons convicted of violating the laws of the city, and failing to pay the fines inflicted therefor, shall be confined in the said work-house at labour, until such fine is discharged at fifty cents per day, instead of being confined in jail, and all slaves found hiring their own time within said city, shall be subjected to confinement in the same work-house, under the order of the Mayor for three months, who shall cause the master or mistress, or hirer of such slave or slaves, if within the city, to be first summoned to show cause if any, he, she, or they, can, why it shall not be done; and fines for disturbing religious worship; and for breaches of the peace, and for riots within the said city, may be assessed by a jury before the Mayor, to one hundred dollars; and all fines for a violation of the laws and ordinances of the city, shall be for its use. That the title to real estate within the present town of Louisville, held in trust for others, shall be, and hereby is vested in the Mayor and Councilmen of said city, and their successors, subject to the like trust under which it was held by the Trustees of Louisville, and in suing the city of Louisville, the writ shall run against the Mayor and Councilmen of the city of Louisville, and service on the Mayor, or clerk, or secretary, shall be sufficient service of such process.

SEC. 14. *Be it further enacted*, That the Mayor and Councilmen shall cause all the by-laws, and ordinances passed by them, to be fairly recorded in the journal of their proceedings, and publish the same in one or more public newspapers, printed within said city; and annually to make out and publish a report of their proceedings with an account of all monies received and paid out by their order, during the year that they have been in office.

SEC. 15. *Be it further enacted*, That, in the event of the death, resignation or refusal to act of the Mayor, the Councilmen shall proceed to elect one of their own number, to supply his place, and the person so elected, shall be the Mayor of said city, until a new election is held, and the Mayor elected, sworn into office, and the Mayor and Councilmen shall immediately proceed to order another election, to supply such vacancy for the residue of the term, as in the

original election of said Mayor, and in the like event as to one or more councilmen, the board shall direct a new election in the ward or wards in which the vacancy shall happen.

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SEC. 16. *Be it further enacted,* That the county levy for the county of Jefferson, heretofore collected from the inhabitants within the boundaries of said city, shall be discontinued, and the amount thereof collected by the authority of the said Mayor and Councilmen, as is in this act provided for.

County levies within the bounds of the city to be discontinued.

SEC. 17. *Be it further enacted,* That the Mayor and Councilmen shall appoint all necessary subordinate officers, to carry the foregoing provisions of this act into full effect; such as a city treasurer, police officers, overseers of the poor, keepers of the poor and work-house, and any others that may be required, and to qualify them for the faithful discharge of their several duties, and require bonds and securities of them for the same.

Mayor and Councilmen to appoint all subordinate officers.

SEC. 18. *Be it further enacted,* That the Mayor and Councilmen shall have the power and authority to pass all needful by-laws, with adequate penalties for the infraction of the same, not exceeding fifty dollars, which penalties may be sued for in the name of the city, and recovered before any Justice of the Peace.

Pass by-laws &c. with adequate penalties for their infraction.

SEC. 19. *Be it further enacted,* That all the rights, privileges and property, real and personal, and choses in action, which are now vested in, and belonging to the Trustees of the town of Louisville, shall, so soon as said board of Mayor and Councilmen may be organized, be vested in, and belong to said city of Louisville, subject to the payment of all just demands which may exist against said Trustees, and for which they are personally or otherwise responsible.

All the rights, privileges, property, and choses in action of the trustees of Louisville, vested in the city of Louisville, subject to all just demands against said trustees.

SEC. 20. *Be it further enacted,* That there shall be, in said city, an officer to be styled the city Marshal, who shall be chosen annually, at the same time and in like manner, as the Mayor and Councilmen, and who shall hold his office for one year, and until his successor shall be elected and qualified. He shall, if required by the Mayor and Councilmen, have a resident deputy in each ward of said city. His deputies shall be appointed with the advice and consent of the Mayor and Councilmen. He shall, either by himself or deputy, attend all the sessions of the Mayor and Councilmen, and preserve order

City Marshal to be annually elected.

Appoint a deputy in each ward, if required, and with the consent of the Mayor and Councilmen.

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**Duty of the
city Marshal.**

**Give bond
and security.**

**Condition
thereof.**

**Lien created
on his land &
slaves and
that of his se-
curities for all
money com-
ing into his
hands.**

**Liable to mo-
tions as sher-
iff now, and
for monies
collected.**

**Mayor and
Councilmen
to fill vacan-
cies in the of-
fice of Mar-
shall.**

**Recognizan-
ces &c. taken
by the Mayor
to be returned
to the Jeffe-
rson circuit
court.**

**Clerk of the
city council
to be clerk to
the Mayor.**

**His duties and
fees.**

under their directions. He shall, by himself or deputy, execute all process emanating from the Mayor. He may be appointed city collector, and collector of the revenue of this Commonwealth within the city. He shall execute bond with sufficient security, in an adequate penalty before the Mayor and Council, to the Commonwealth of Kentucky, conditioned faithfully to discharge the duties of his office, and to pay over all sums of money that may come to his hands, to the persons entitled, at the time stipulated, and a lien shall exist on the land and slaves of said Marshal and sureties, from the time of executing bond, for all sums of money that shall come to his hands. He shall be entitled to receive the same fees for the like services, which Sheriffs are entitled to receive, and shall have the same power and duty within the city. He and his securities shall be liable to judgment by motion in the Jefferson Circuit Court, in favor of any person entitled to money collected by said Marshal, in like manner as Sheriffs are liable, and if the Marshal shall die, resign, or fail to execute bond within ten days after the annual election, the Mayor and Councilmen shall elect a Marshal to serve until the next annual election.

SEC. 21. *Be it further enacted*, That all recognizances taken by the Mayor of Louisville, when days is given for the appearance of the party, shall be for appearance in the Jefferson Circuit Court, and all recognizancies shall be returned to the Clerk of said court, under the hand of the Mayor, and shall be docketted as recognizances taken and returned by Magistrates. The Mayor on the examination of criminal offenders, shall make out a statement of the evidence, and shall recognize the witnesses, and shall return the statement of the evidence, and the recognizance to the Clerk, of the Jefferson Circuit Court.

SEC. 22. *Be it further enacted*, That the Clerk of the city council, shall be Clerk for the Mayor, and keep a record of his proceedings, and shall issue original process for bringing parties before him, and executions and precepts on his judgments. He shall be entitled to charge and receive the like fees, that clerks of the several Circuit Courts are entitled to receive for the like services, and have the right to issue fee bills and collect them in like manner.

SEC. 23. *Be it further enacted*, That the corporation of the city of Louisville, shall be forever restrained

from adopting any by-laws or regulations, by which any boat or other vessel coming to or landing within the limits of the corporation, shall be made liable to pay any fee or sum of money for wharfage or for the privilege of lying to, within said jurisdiction, without receiving any additional loading, or unloading the cargo or any part thereof; and this loading or unloading shall not be construed to apply to any passenger or passengers, or his or their baggage, unless such boat or other vessel shall continue within such jurisdiction for more than twenty-four hours, in which case, the corporation may pass laws to demand wharfage: *Provided however*, That this section shall not be so construed, as to apply to any wharf which has been or may hereafter be erected by said corporation or private individuals, from the time the said wharf shall be completed and so paved or graveled, as to render it practicable to land goods, flour and other produce thereon, without being injured by mud or other filth: *And provided also*, It shall not be construed to extend to any boats or other vessels passing through the Louisville and Portland Canal, and not lying to or lading and unlading at the wharves.

SEC. 24. *Be it further enacted*, That in all elections for Mayor, not less than two persons shall be voted for as such, and the two persons having the highest number of votes, shall at the first election, be certified by the Sheriff to the Governor of this Commonwealth, and at the subsequent elections, by the Clerk of the City Council, under the direction of the Mayor and Council, stating in the certificate, the number of votes given to each, one of whom shall be commissioned by the Governor as Mayor of the City of Louisville, and submitted for the advice and consent of the Senate, as in other cases; and if for any sufficient cause, the Governor shall refuse to commission a Mayor, or the Senate shall refuse to advise and consent to the person nominated as Mayor, the same shall be certified by the Secretary of State, to the City Council of Louisville, who shall in not less than ten days, nor more than thirty days, cause another election to be held for Mayor, to be conducted as other elections are to be directed by this act, and the two persons having the highest number of votes, shall again be certified to the Governor, who shall commission one of them as aforesaid.

Sec. 25. *Be it further enacted*, That nothing con-

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Corporation prohibited from passing by-laws compelling boats or vessels to pay for the privilege of landing or lying to in said jurisdiction, or for wharfage, without unloading or taking in additional loading

In what cases wharfage may be demanded.

Proviso.

Not less than two persons to be voted for as Mayor.

Two persons having the highest vote for Mayor to be certified to the Governor, one of whom is by him to be commissioned, and submitted to the Senate for their advice and consent.

1828.
Saving clause

Continuance
of this act
limited to five
years.

tained herein, shall be so construed, as to prevent the Legislature of this Commonwealth, from changing, altering, amending or repealing, the whole or any part of this act.

SEC. 26. *Be it further enacted,* That this act shall continue and be in force for five years from and after its passage, and no longer; and upon the dissolution of the corporation, all property, books, claims and responsibilities, shall result to, and devolve upon the trustees of the town of Louisville, to be chosen or appointed as heretofore directed by law.

Approved, February 13, 1828.

CHAP. 173.—An act more effectually to guard the occupant of land.

Title of land
forfeited to
the Common-
wealth to
enure to the
occupant
without office
found.

Where land is
held under
claims, one
only may be
listed for tax-
ation.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That in all cases, where lands have or may be forfeited to this Commonwealth under any of the laws now in force, that any such title, interest or claim, shall enure to, and be vested in the person in possession of any lands thus forfeited, to the extent of the claim, and possession of such occupant and no further: *And provided further,* That such occupant has a title, either in law or equity, to the land thus occupied, without office found, or judgment, as fully and in as ample a manner as might or could be done, by inquisition of office and judgment, entitling the person or his heirs, or assigns, who may have been in possession of the same, at the date of any such forfeiture, that no advantage shall be taken of any occupant of lands, or those holding under them, where any such have been innocent purchasers of land, forfeited to this State, notwithstanding such forfeiture may have happened, previous to any such purchase: *Provided,* That any such purchaser or occupant, shall have regularly paid the taxes due on said land, from the date of his purchase. That hereafter, it shall not be necessary for the owner of any lands, in this Commonwealth, in cases where he or she, may hold a title under several claims, covering the same ground, to enter for taxation and pay tax, on more than one of those claims: *Provided,* That nothing in this act shall be construed to vest the title of any forfeited land, in an occupant claiming the same under a title founded on a land warrant, issued since the 6th day of February

1815, but those claims shall remain as though this act had not passed.

1828.

That all acts or parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

Approved, February 31, 1828.

CHAP. 174.—An act to provide for changing the venue in the case of Alexander Gowings and wife.

WHEREAS, it is represented to this General Assembly, by the petition and affidavit of Alexander Gowings, that he and his wife Polly Gowings, stand indicted in the Lawrence Circuit Court for perjury, and that he does not believe that he and his said wife can have a fair and impartial trial by a jury of the said county, owing to the interference and undue influence of others: Therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said Gowings and wife, may file with the Clerk to be lodged with the said indictments, their respective affidavits, that they severally desire a change of venue; and thereupon, the Clerk of said court shall convey or cause to be conveyed at the expense of said Gowings, by some safe means, the indictments, recognizances, subpoenas and all other papers relating to said indictments, to the Clerk of the Circuit Court of Greenup county, there to be filed and lodged; and the Clerk of the said last mentioned court shall receive and receipt for the same, to the Clerk of the Lawrence Circuit Court, to be by him filed away and preserved: *Provided however*, That such affidavits shall be filed with the Clerk of the Lawrence Circuit Court, on or before the first day of March next, and the papers shall by said Clerk be removed to the Clerk's office of the Greenup Circuit Court, on or before the 15th day of March next.

SEC. 2. *Be it further enacted*, That upon the filing of such papers, the Clerk of the said Circuit Court of Greenup county, shall forthwith issue subpoenas for all the witnesses named in said proceedings, or for which subpoenas had theretofore been issued in behalf of the Commonwealth, and also for such witnesses as may be required on the part of the defendants, returnable to the first ensuing term of the said Greenup Circuit Court, and the trial and all other

1828.

proceedings shall thereupon be had, in all respects as though the said several indictments had been found by the grand jury of the said county of Greenup, and the offence had been committed within that county, if it be found that the charges or either of them are true: *Provided however*, That the accused or either of them shall not be discharged by reason of any number of continuances, nor for any other cause until a final trial shall have been had upon the merits, or the indictments shall have been quashed or set aside by the court.

SEC. 3. *Be it further enacted*, That neither the said Gowings nor his wife, shall be entitled to a change of venue under the provisions of this act, unless they shall on or before the first day of March next, have gone before the Clerk of the said Lawrence Circuit Court, and together with the same securities that now stand bound for their appearance, or other good and sufficient securities, to be approved of by said Clerk, enter into recognizances for their respective appearances, at the said Circuit Court of Greenup county, on the first day of the next ensuing term thereof, to answer severally to the charges contained in the said indictments and not depart thence without the leave of the court, which recognizances, the said Clerk is hereby authorized and directed to take, in the same penalties as those directed by the Judge of the Lawrence Circuit Court, at the term at which said indictments were returned; and the said Clerk shall also transmit said recognizances so taken, with the other papers, to the Clerk's office of the said Greenup Circuit Court; and such recognizances and each of them, shall have the same force, validity and effect, as if taken in the said Circuit Court of Greenup county, and shall be proceeded upon in the same manner for a breach of the conditions thereof.

Approved, February 13, 1828.

CHAP. 175.—An act for the benefit of Nancy Vaughn and Lydia Rayne.

Register directed to issue a patent to Nancy Vaughn for certain land.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Register of the land office be, and he is hereby directed, upon Nancy Vaughn or any other person for her, producing to him a plat and certificate of survey in the name of the

said Nancy Vaughn, for two hundred and seventy-five acres of land, according to a certificate granted by the County Court of Lincoln, number three hundred and five, to issue a patent to the said Nancy Vaughn, without her paying the balance of the State price due therefor.

1828.

SEC. 2. *Be it further enacted*, That the Register of the land office is hereby directed, to issue a patent in the name of Lydia Rayne, for the following boundary of land in the county of Pulaski, containing by survey one hundred acres, and bounded as follows, to-wit: Beginning at a hickory on the top of a ridge, running thence north thirty-five degrees, west sixty-two poles, to two white oaks, thence north twenty-two degrees, west seventy-two poles to a white oak in William Gibson's line, thence north seventy-six degrees, east one hundred and seventy-three poles, to two sugar trees on a small branch, thence south twenty-nine degrees, east twenty poles, to a white oak, thence south forty-seven, west thirty-six poles, to a hickory, thence south twenty-nine degrees, west one hundred and seventy-eight poles, to the beginning, so as to include the improvement where the said Lydia Rayne lives, it being on a County Court certificate of the county of Pulaski, number nine hundred and twenty-seven, drawn by James Rayne, in his life time: And whereas, the said Lydia Rayne is represented to be a poor widow woman, and has not a sufficiency to pay the balance of the State price due upon said one hundred acres of land; the Register is therefore directed to issue the patent without any fee thereon: *Provided however*, That this act shall not affect any older or better claim to the land aforesaid.

And to Lydia Rayne for a tract of land in Pulaski county.

Provido.

Approved, February 13, 1828.

CHAP. 176.—An act to amend the law in trials cognizable before Justices of the Peace.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the provisions of an act entitled "an act to amend the law for the recovery of debts cognizable before Justices of the Peace," approved February 1st 1809, shall apply to and be observed in the trial of all causes within the jurisdiction of Justices of the Peace, and in all appeals in the Circuit Courts from the judgment of a Justice.

Provision of the act of 1809 applicable in all trials before Justices of the Peace.

1828.

Justices of the Peace to have concurrent jurisdiction with Circuit Courts, &c.

Appeals may be taken as heretofore.

The right of trial by jury to be preserved.

No judgment for cost to be given in certain cases.

Proviso.

Court or Justice to render judgment, &c.

Costs to be awarded against a party plaintiff appealing from the judgment of a justice, &c.

SEC. 2. *Be it further enacted,* That the Justices of the Peace in this Commonwealth, shall have concurrent original jurisdiction of all contracts, written or parol, express or implied, for the payment of money or property, or for the performance of any act or acts, duty or duties, in cases where the debt, the balance of the debt or the damages, which the obligee or promisee shall be entitled to recover by the breach of, or in virtue of said contract, shall not exceed fifty dollars, and the parties shall have the same right of appeal from the judgments rendered by Justices of the Peace in relation thereto, which plaintiffs and defendants now have on judgments or controversies for like sums, and on the same terms and conditions, and where the matter in controversy shall exceed five pounds, they shall have the same right of trial by jury which now exists in regard to controversies of like amount.

SEC. 3. *Be it further enacted,* That the plaintiff or plaintiffs in actions of debt, covenant, assumpsit and petition, hereafter instituted in the Circuit Courts shall not recover costs from the defendant or defendants in such actions, unless the debt exclusive of interest or damages recovered therein, shall exceed fifty dollars; but in such cases the court shall render judgment in favor of the plaintiff or plaintiffs only for such debt or damages, and shall moreover render a judgment against the plaintiff or plaintiffs, in favor of the defendant or defendants, for their costs expended in the defence of said action: *Provided,* That the provisions of this section shall not extend to any case where the defendant or defendants shall file a plea or notice of set off.

SEC. 4. *Be it further enacted,* That where any defendant may refuse to swear when called on by the plaintiff, or where the plaintiff may refuse when called on by the defendant, the Justice of the Peace shall render judgment against the party so refusing, for the amount of plaintiff's demand or defendant's set off, as the case may be.

SEC. 5. *Be it further enacted,* That in cases where the plaintiff or plaintiffs in any judgment rendered before a Justice of the Peace, shall appeal therefrom, and on the trial of said appeal, shall not recover judgment for a larger amount, exclusive of interest, than the judgment appealed from, it shall be the duty of the court trying such appeal to render a judgment in favor of the appellee or appellees against the ap-

pellant or appellants, for the costs expended by said
appellee or appellees, in the defence of said appeal. 1828.

Approved, February 13, 1828.

CHAP. 177.—An act to add a part of Caldwell to Trigg county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of Caldwell county, within the following bounds, to-wit: Bounds of the addition to Trigg county.
Beginning at the mouth of Hurricane creek, on Cumberland river, running a straight line to a point one mile below the present corner of Trigg and Caldwell counties on Tennessee river, thence up said river, to said corner, thence with the present Trigg county line, to the beginning, shall be, and the same is hereby added to the county of Trigg.

SEC. 2. *Be it further enacted,* That the surveyor of Trigg county is hereby directed to run and mark said line, at the charge of said county. Surveyor of Trigg to run and mark the boundary line.

SEC. 3. *Be it further enacted,* That all money now due for the revenue or otherwise, now in the hands of any officer of Caldwell county for collection, may be collected by him, as though this law had not passed. Collections of taxes &c. to be made by the officers of Caldwell.

Approved, February 13, 1828.

CHAP. 178.—An act giving further time to certain officers to renew their bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That where clerks of the Circuit and County Courts of this Commonwealth, and surveyors of counties, have failed to renew their bonds of office, as now required by law, that they be, and are hereby allowed six months, from and after the passage of this act, to comply with the requisitions of an act passed January twenty-third, one thousand eight hundred and ten, and that such bonds when executed, shall be as valid and effectual as if executed within the time now prescribed by law, and that no penalties or forfeitures shall be incurred by said clerks or surveyors, on account of having so failed to execute their respective bonds. Clerks of courts and surveyors allowed six months to renew their bonds.

Approved, February 13, 1828.

1828.

CHAP. 179.—An act for the benefit of Peter Curtner.

WHEREAS, it is represented to the present General Assembly, that Peter Curtner is a very poor, old and blind man, with a large family of small children, depending upon him for a support, and that he has been living several years on a poor peice of land in Graves county, it being the South West quarter of section seven, township two, North range one East of the meridian line, and has petitioned this Legislature to give him the said land: Wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That on the said Peter Curtner or any person for him, producing satisfactory evidence to the Register of the Land Office, of his residence on the quarter section aforesaid, it shall be the duty of the Register aforesaid, and he is hereby authorized and directed to issue a patent for the aforesaid quarter section of land, to the said Peter Curtner, without fee therefor.

Approved, February 13, 1828.

CHAP. 180.—An act for the benefit of the infant heirs of Aquilla Hodskins, deceased.

WHEREAS, it is represented to this Legislature, that Aquilla Hodskins and Vincent Hodskins, were joint owners of a lot in Lebanon, on which was a horse mill and cotton gin, and that they sold the said lot at public sale, and that Aquilla became the purchaser for the sum of four hundred dollars, but departed this life before the contract was carried into execution, or any part of the money paid. And whereas, it is further represented, that said Vincent is willing that the said lot shall be sold again, and the proceeds of sale divided between him and the heirs of said Aquilla.

SEC. 1. *Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the heirs of the said Aquilla, by their guardian or if they have no legally appointed guardian, then by their next friend to file a petition in the Washington Circuit Court, praying that a sale of said lot may be decreed, in which petition Vincent Hodskins shall be made a defendant. And if it shall appear that it is just and equitable, that the said lot should be sold,

and moreover, that it will redound to the advantage of said heirs, then the court shall decree a sale of said lot, upon such terms and on such a credit as the Court may deem proper. And the said Court shall direct such a disposition of the proceeds of sale, as may appear just and equitable, and may also require bond and security from the guardian or next friend, (as the case may be) of the infants, for the faithful application of their part of the proceeds of sale, according to the directions of the decree.

1828.

Approved, February 13, 1828.

CHAP. 181.—An act to provide for erecting a bridge across Hinkston's Creek, at the mouth of Peyton Lick Branch.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful to erect a bridge across Hinkston's creek, a little below the mouth of Peyton lick branch, under the superintendence and management of the persons hereinafter mentioned, provided the consent of the owner or owners of the land, on and against which, said bridge may be abutted, be first obtained.

A bridge may be erected at the above named place, with the consent of the owners of the land.

SEC. 2. *Be it further enacted,* That Robert Mitchell, Andrew Gudgel, Benjamin Utterback, Robert Brashear and Nathaniel Wilson, of the county of Bath; Henry Duncan of the county of Montgomery, and Duncan O. Richart, of the county of Bourbon, or any three of them, are hereby appointed commissioners to superintend the building said bridge; and it shall, and may be lawful for said commissioners or any three of them to put on foot a subscription to raise any sum of money, not exceeding one thousand dollars, to be appropriated towards defraying the expense which may accrue in erecting said bridge, and any surplus money which may be left in the hands of said commissioners, after erecting said bridge, shall be applied towards improving the road from said bridge, as far eastward as to the house of Andrew Gudgel, Esq. and said commissioners shall have full power and authority to sue for, and recover by warrant, or otherwise, all sums of money or property, which may be subscribed for the purpose of building the said bridge, as aforesaid. And in case of the death, resignation, removal or refusal to act, or

Commissioners appointed to superintend its erection.

Subscriptions authorized to be raised not exceeding \$1000 for that purpose.

Commissioners may sue for, and recover subscriptions.

1828.

Bath County Court authorized to fill vacancies in the board of commissioners.

Power & duty of the commissioners.

other disability, the County Court of Bath shall have full power to fill all such vacancies which may so happen, and the commissioner so appointed, shall be vested with the same powers and authority, as the commissioners in this act before mentioned; and said commissioners shall have power to contract and receive proposals from undertakers, and contract jointly with some undertaker, to build said bridge, taking from said undertaker or undertakers, bond with approved security, for building and maintaining said bridge a reasonable length of time, not exceeding seven years: they shall also have power to superintend the buildings, to see that the work is done in a good and workmanlike manner, and to reject defective materials which may be attempted to be put in said bridge.

Approved, February 13, 1828.

CHAP. 182. An act for the benefit of Leonard B. Parker, deputy sheriff of Hardin county.

Recital.

WHEREAS, it is represented to this General Assembly, that the list made out by the Auditor of Public Accounts, of persons who had removed to the county of Hardin and liable for tax, also, a list of forfeited lands, which by law were to be advertised and forfeited, if the taxes and charges due thereon, were not paid, though made out in time, came to the hands of the sheriff of said county, too late for said sheriff either to collect the amount due from persons chargeable with tax to advertise, and forfeit said lands, in pursuance to law, or to make out a return of delinquents on said list, and that many of the persons returned on said list, do not reside in said county of Hardin; and in consequence of the said sheriffs' not returning a list of delinquents in pursuance to law, Leonard B. Parker, his deputy, has been compelled to pay into the treasury, the sum of seventy-one dollars and thirty cents, the amount of the taxes appearing to be due on said list, including one hundred and fifty per cent upon the amount: Therefore,

Auditor directed to refund certain money.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor be, and he is hereby directed to issue his warrant upon the treasury, in favor of the said Leonard B. Parker,

or his order, for the sum of seventy-one dollars and thirty cents, which shall be paid by the Treasurer.

1828.

SEC. 2. *Be it further enacted*, That the said list of persons and lands, shall now be considered in the hands of the sheriff of Hardin, who shall be authorized to collect any taxes due thereon, and advertise and forfeit to the state, the lands therein mentioned, in pursuance to law, and the written directions of the Auditor, and the Auditor shall, in every respect, hold the said sheriff liable for the amount of said list in the settlement, for the taxes due in 1827, payable in 1828, and the said sheriff shall, in every respect, have the right to return his list of delinquents, and do all such other acts as he could lawfully have done, provided said list had originally come to his hands in due time, and the Auditor shall settle with him upon the same terms.

Said sheriff to collect and account for certain taxes placed in his hands by the Auditor &c.

Approved, February 13, 1828.

CHAP. 183.—An act for the divorce of R. Tomlinson and others.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the marriage contract heretofore solemnized between Rebecca Tomlinson and John Tomlinson, be, and the same is hereby set aside and held for naught, and the said John Tomlinson is restored to all the privileges of an unmarried man.

Rebecca and John Tomlinson divorced.

SEC. 2. *Be it further enacted*, That the marriage contract existing between Mary Broils and her husband William Broils, be, and the same is hereby dissolved and dissolved as to the said Mary, and the said Mary is hereby restored to all the privileges and rights of a feme sole.

Mary Broils divorced from her husband.

SEC. 3. *Be it further enacted*, That the marriage contract between Catharine Endor and Emanuel Endor, of the county of Jessamine, be, and the same is hereby dissolved as to the said Catharine, and the said Catharine is hereby restored to all the rights and privileges of a feme sole.

Catharine Endor divorced from her husband.

Approved, February 13, 1828.

1828.

CHAP. 184.—An act supplementary to an act entitled an act appointing commissioners to survey and make out a road from Harrodsburg to Smithland.

The above mentioned road to pass through Centreville to Salem.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the road shall be run and marked out from Princeton, by way of Centreville, to Salem, as in said recited act.

Approved, February 13, 1828.

CHAP. 185.—An act prescribing the duties of the Clerks of the inferior courts, in making out complete records.

Manner in which complete records for the Court of Appeals shall be made out.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all transcripts of records made out by the Clerks of inferior courts to be used in the Court of Appeals, on motions or trials to be had therein, shall be made out in a legible hand, placing each document and order distinctly and separate from each other, with correct marginal notes, as now directed by law, and an index or table of contents annexed thereto, shewing the page where each document or important order, judgment or decree, shall be found, and containing no more and no less therein than shall belong to the record, by the rules of law or equity: and each transcript so made out shall be stitched or confined together at the top of the pages, and the page on each side shall be the reverse to the page of the opposite side, so as to make a running page.

Clerk of the Court of Appeals to transmit instructions.

SEC. 2. The Clerk of the Court of Appeals shall transmit, by mail, from time to time, if necessary, printed or written instructions to the Clerks of inferior courts, how to make out complete records; which instructions shall be previously submitted to the judges of said court, and be approved by at least a majority of them, and shall be obligatory upon and be obeyed by the Clerks of the inferior courts.

Records not made out pursuant to this act, or to the instructions given, may be condemned by the Court of Appeals.

SEC. 3. All copies of records made out by the Clerks of inferior courts, which may not conform to this act, or the instructions of the Clerk of the Court of Appeals, or is made out in an illegible hand or in a confused manner, and not in the proper order, or which shall contain matter therein which does not compose a part of the record by law, or shall not conform to the law in every respect, shall be subject

to condemnation by the Court of Appeals, and the Judges shall ex-officio take notice of such improprieties, and shall direct their Clerk to enter on their records that such copy is condemned, and that entry shall always accompany the mandate which is transmitted to the inferior court. And the fees which may be charged by the Clerk who has made out such record, shall be irrecoverable: or if recovered, may be recovered back as money had and received to the use of the party who has paid the same, before any Court or Justice of the Peace having jurisdiction of like sums, and in the declaration for the same, the general count for money had and received, in the usual form, shall be sufficient, without setting forth the special matter..

1828.

Fees charged for such condemned records irrecoverable, or if paid, may be recovered back.

Approved, February 13, 1828.

CHAP. 186.—An act further to prescribe the duties of Sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, when the execution of any original or mesne process, which shall have come to the hands of any Sheriff or Deputy Sheriff, or the Sergeant of the Court of Appeals, or his Deputy, shall be resisted by force, evasion, concealment or otherwise, it shall be lawful for said Sheriff or Sergeant, by a written instrument, to empower any discreet person to execute said process; who, upon the execution thereof, shall make return upon the back of the instrument by which he was empowered to act; and the Sheriff or Sergeant, by himself or one of his Deputies, shall thereupon return the process executed: and the said execution shall be as good to all intents and purposes as if the same had been executed by the Sheriff or Sergeant, or one of his regularly constituted Deputies. The person thus specially deputized shall make his return upon oath: and the Sheriff or Sergeant shall return with the process the written authority of his specially authorized Deputy, together with his return thereon, and shall incur the same responsibilities as if he had executed the process himself, for a false return or otherwise.

Sheriffs &c. authorized to deputise persons to serve process in certain cases.

Person deputed to make returns &c. on oath to his principal, &c.

Sheriff or sergeant to be liable for a false return by the deputy thus empowered.

NOTE.

~~63~~ The engrossed and enrolled bills fixing the ratio and apportioning the representation, neither, shew how the county of LAUREL is to be represented in the lower house; it is omitted in both by mistake in engrossing the amendments made to the bill, and is attributable mainly to the difficulty in the two houses coming to an agreement. The bill originated in the Senate, and in the bill as passed there, Laurel and Whitley were added together to send one member—this will appear from the bill as spread on the journal of the House of Representatives, page 271. They amended the bill and attached Laurel to Knox and Harlan, see page 321. The Senate disagreed to the amendment, see 301 of their journal, and the House of Representatives receded from this amendment, see 322 of their journal, whereby it appears that Laurel and Whitley counties, together, are entitled to one member in the lower House.

J. H. HOLEMAN, *Public Printer.*

April 6, 1828.

RESOLUTIONS.

A Resolution for appointing joint committees, to examine the Public Offices, the Penitentiary; the Bank of Kentucky; and the Bank of the Commonwealth.

WHEREAS: It is necessary, that joint committees to examine the public offices, the Bank of Kentucky, the Commonwealth's Bank, and the Penitentiary be raised.

Resolved, therefore, by the General Assembly of the Commonwealth of Kentucky, That a Committee of three from the Senate, and six from the House of Representatives be raised, to examine and report the condition of the Auditors Office.

That a Committee of three from the Senate, and six from the House of Representatives, be raised to examine and report the condition of the Treasury.

That a Committee of three from the Senate, and six from the House of Representatives, to examine and report the condition of the Register's Office.

That a Committee of three from the Senate, and six from the House of Representatives, to examine and report the condition of the Bank of Kentucky.

That a Committee of three from the Senate, and six from the House of Representatives, to examine and report the condition of the Commonwealth's Bank.

And that a Committee of three from the Senate, and six from the House of Representatives, to examine and report the condition of the Penitentiary.

Approved, December 11, 1827.

A Resolution for appointing Committees, to examine the Auditors Office for the years 1825 and 1826.

WHEREAS: It appears by the Auditor's statement, that no public examination of his office, has been made beyond January, 1825.

Resolved, therefore by the General Assembly of the Commonwealth of Kentucky, That a Committee of two from the Senate, and four from the House of Representatives, be appointed to examine the Auditor's office, for the year 1825, and that a committee of two from the Senate, and four from the House of Representatives, be appointed to examine the Auditor's office, for the year 1826.

Approved, December, 31, 1827.

RESOLUTIONS.

A Resolution for appointing a joint committee, to examine the charges, preferred against J. H. Holeman, Public Printer.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That the letter of A. G. Merriwether, preferring charges against the official conduct of J. H. Holeman, be referred to a joint committee of five from the Senate, and ten from the House of Representatives, with power to send for persons, books and papers, for their information.

Approved, January —, 1823.

A Resolution fixing on a day for the election of Public Officers.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That they will, on Wednesday the 30th inst. proceed by a joint vote, of both Houses to the election of a Treasurer, Public Printer, a President and Directors, of the Bank of Kentucky, a President and Directors, of the Bank of the Commonwealth, and its branches, and Trustees for the Transylvania University.

Approved, January 26, 1823.

A Resolution for placing in Transylvania University, a Sextant belonging to the State.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That the Governor of this Commonwealth, be respectfully requested to address a letter to Thomas J. Mathews Esq. professor of Mathematics, in the Transylvania University, requesting him to deposit in Transylvania University, subject to the future disposition of the Legislature of this State, a sextant, which he purchased with the funds of the State.

Approved, February —, 1823.

A joint resolution offering five hundred dollars, for the discovery of the cause of the milk sickness.

WHEREAS, it is represented to the General Assembly, that many of the good people of this Commonwealth, are from time to time, seriously afflicted with the disease, commonly called the milk sickness: and whereas it is believed, that if the true cause of the malady could be discovered, many if not all, might be saved from its ravages: *Be it therefore resolved,* that the sum of five hundred dollars be, and the same is hereby offered, to any person or persons, who shall discover and make known, the true cause of said disease, and a specific cure for the same; and if any

person shall discover the cause alone, he shall be entitled to half the above sum, and the person discovering the specific cure the other half. *Provided however*, that the several discoveries herein mentioned, must have been made within twelve months from the passage of this resolution, to entitle him to the reward herein offered.

Approved, February 11, 1828.

A resolution for burning a part of the notes, of the Bank of the Commonwealth of Kentucky.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That the President and Directors, of the Bank of the Commonwealth of Kentucky, shall on or before the first Monday in March next, in the presence of the Governor, Auditor and Treasurer, proceed to count and destroy, by burning four hundred thousand dollars, of the notes of said bank, that have been withdrawn from circulation, and that they select such of said notes for that purpose, as have been most defaced.

Approved, February —, 1828.

A resolution requesting the Congress of the United States, to make appropriations for extending a branch of the national road, from Zanesville in Ohio, to Maysville, in Kentucky, and from thence through the States of Kentucky, Tennessee, Alabama, and Mississippi to New Orleans.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That in the opinion of this Legislature, it would be good policy, on the part of the national government, and an act of justice to the southwestern States, that a portion of the revenues of the United States, should be distributed in the said section of the Union, in some permanent improvement of national importance, and in order to effect said object, it is earnestly recommended to the Congress of the United States, to extend a branch of the national road from Zanesville in Ohio, to Maysville in Kentucky, and thence through the States of Kentucky, Tennessee, Alabama and Mississippi, to New Orleans, and that it would comport with the wishes of the people of Kentucky, that the section of said road between Maysville and Lexington, should be commenced as early as practicable, and prosecuted with the utmost vigour, and the approbation of the people of Kentucky to said improvement, is hereby expressed through their representatives.

Resolved, That our Senators in Congress be instructed, and our members of the House of Representatives, be requested to use their utmost exertion, to effect the objects proposed in the above resolution, and that the Governor of this Commonwealth,

RESOLUTIONS.

be requested to transmit a copy of these resolutions to each of our Senators, and members in Congress.

Approved, February 13, 1828.

A resolution directing the Public Printer, to print three thousand six hundred copies of the Militia law, passed the present session.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That the Public Printer furnish the Adjutant General, with three thousand six hundred copies, printed in hand bill form, of the militia law, that passed the present session, and the Adjutant General shall, as soon as convenient, furnish the commandant of each regiment in this State, with thirty copies, each for the use of their respective regiments.

Approved, February 13, 1828.

A resolution for a recess of the General Assembly.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That when the Legislature adjourn on Saturday, the 22nd inst. they will adjourn, until Thursday the 27th inst.

December, 20 1827.

A joint resolution fixing on a day for the adjournment of the General Assembly.

Resolved, by the General Assembly of the Commonwealth of Kentucky, That when they adjourn on Wednesday, the thirteenth day of February, they will adjourn *sine die*.

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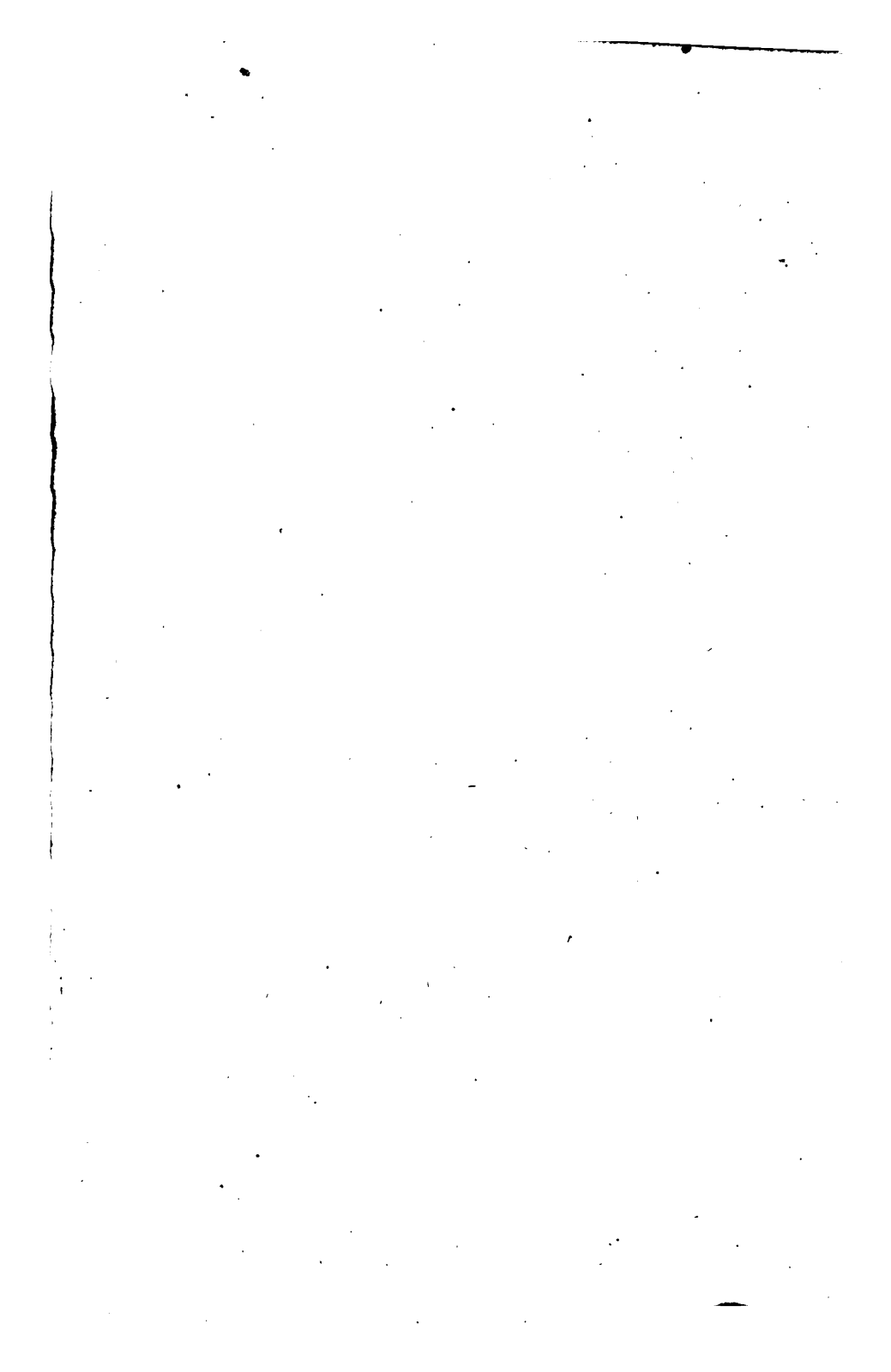
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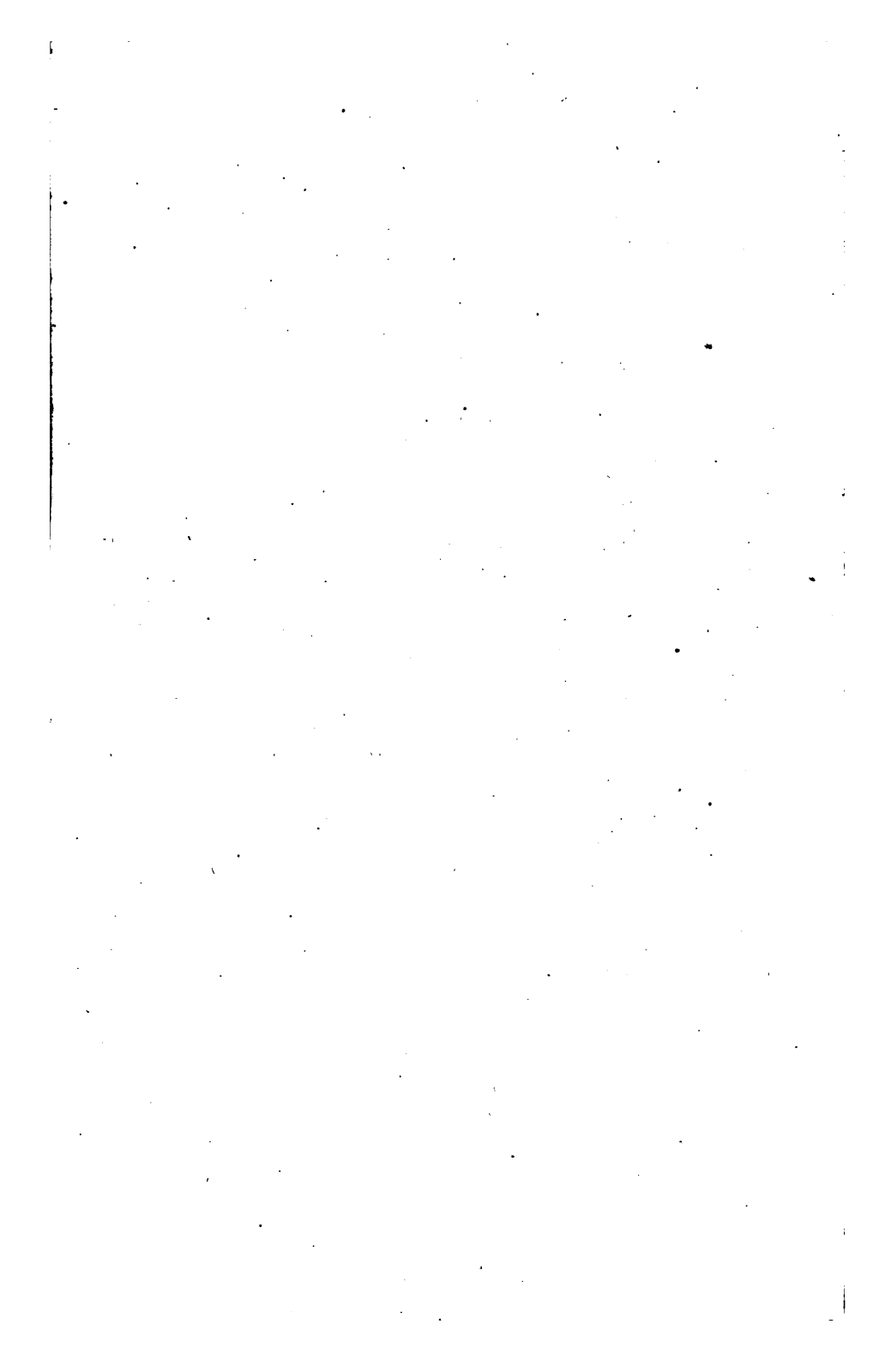
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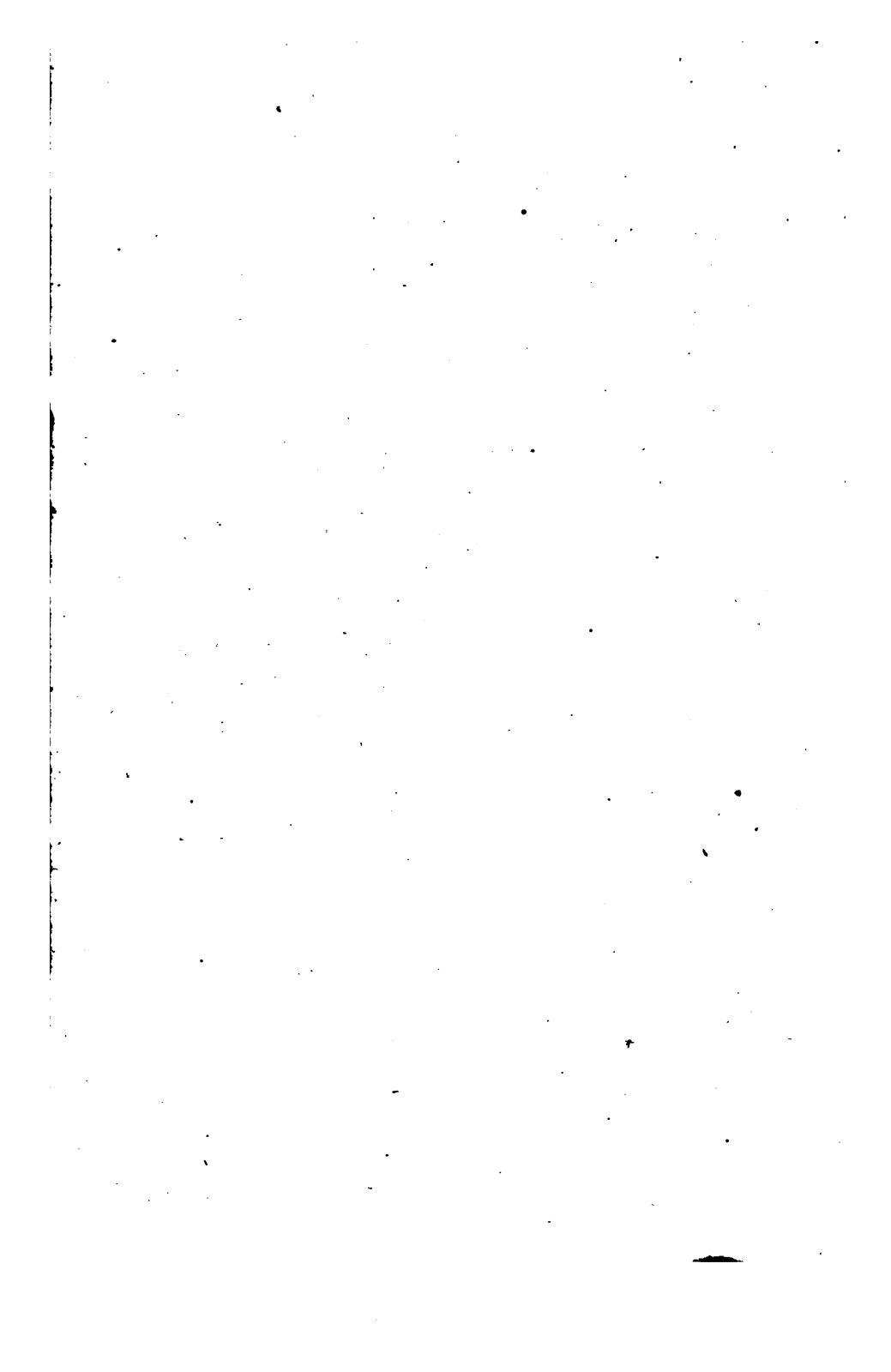
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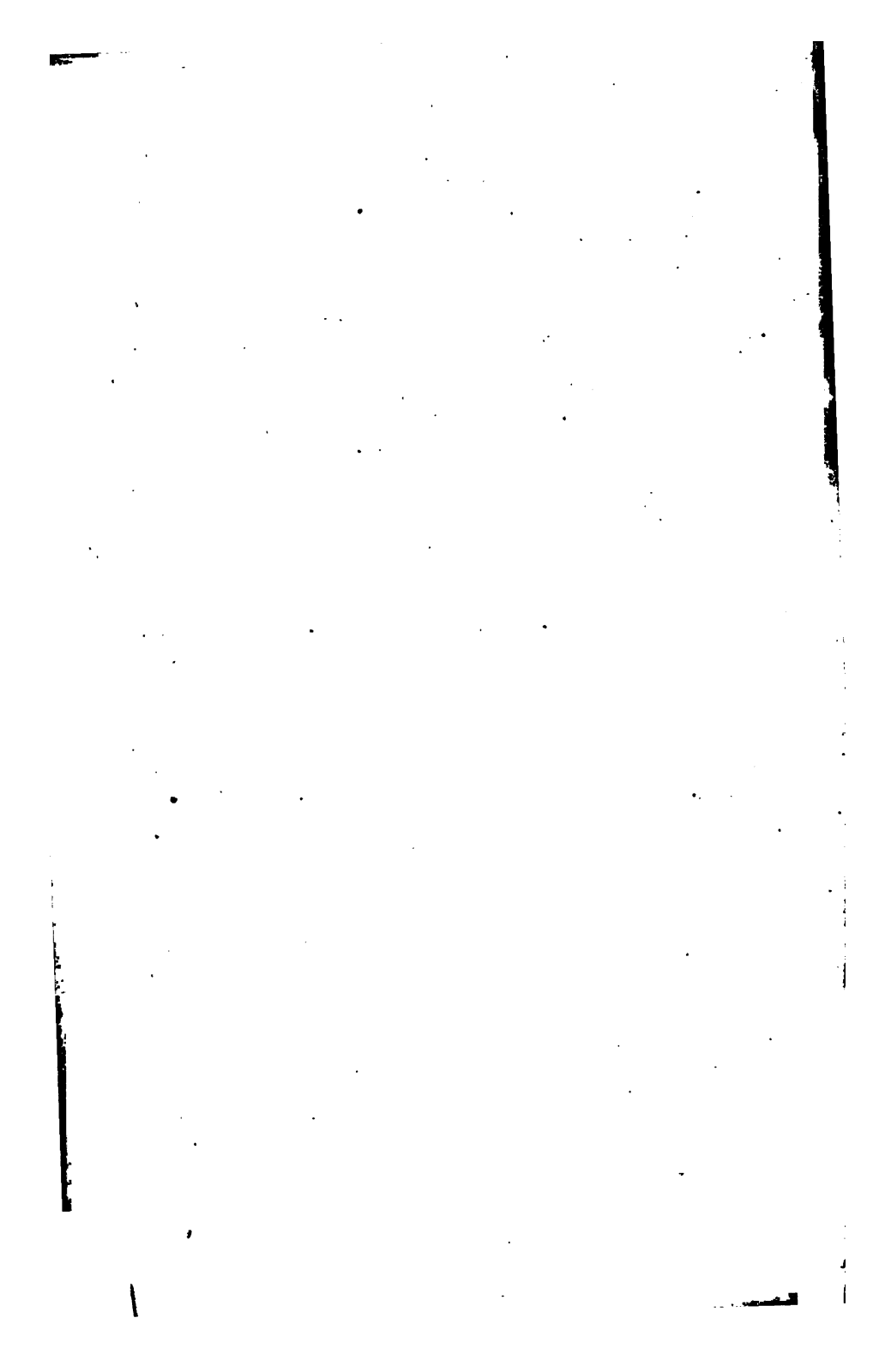
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